

CHAPTER II - CRIMINAL RULES

CrimLR5.1. Arrest by Federal Agencies and Others.

It shall be the duty of all federal agencies and others who arrest any person as a federal prisoner in this district to give prompt notice without unnecessary delay to the appropriate pretrial services officer.

When an arrested person is not represented by counsel and requests to be represented by a court-appointed attorney as an indigent, the federal arresting agency shall inform the magistrate judge of the request without unnecessary delay.

CrimLR12.1. Hearings on Non-Discovery Pretrial Motions.

All dispositive motions shall be heard by a district judge and all non-dispositive matters shall be heard by a magistrate judge, except as otherwise provided or unless otherwise ordered by a district judge. Dates for hearings shall be set, except for good cause shown, between the 40th and 50th days following arraignment. In cases involving defendants arraigned on substantially different dates, the court shall make appropriate adjustments regarding the date of the hearing.

CrimLR12.2. Memoranda in Support of or in Opposition to Motions.

(a) Memoranda in Support of Motions. Each party filing any motion shall file, and serve the adverse party with, an accompanying memorandum setting forth a brief and complete statement of the facts and all points and authorities upon which he or she intends to rely unless the facts, points and authorities are included in the motion.

(b) Memoranda in Opposition to Motions. Each party opposing any motion shall serve the adverse party with and file a memorandum in opposition to the motion that includes a brief and complete statement of the facts and all points and authorities upon which he or she intends to rely.

(c) Non-Opposition. The party not opposing a motion shall file a statement of no opposition within the time provided for responding to the motion.

(d) Notice, Time for Reply. With the exception of motions to continue trial, motions in limine, and oral motions made during the course of the trial, all motions, absent leave of court for good cause shown, shall be filed and served not less than eighteen (18) days prior to the hearing date. Except for good cause shown, all responses shall be filed and served not less than six (6) calendar days prior to the hearing date, and any reply to the opposition shall be filed and served not less than four (4) calendar days prior to the hearing date.

(e) Other Motions Prior to Plea. Nothing in this rule prohibits the filing and hearing of appropriate motions prior to plea.

CrimLR12.3. Local Civil and Magistrate Rules Applicable to Motions.

The local rules pertaining to civil motions are applicable to motions in criminal cases, specifically LR7.5 (Motions; Length of Briefs and Memoranda), LR7.7 (Motions; Filing and Lodging of Extra Copies), LR7.9 (Motions; Related and Counter Motions), and LR10.2 (Form of Papers; Copy). LR7.4 (Motions; Opposition and Reply) is also applicable to appeals from and objections to magistrate judges' orders and proposed orders undertaken pursuant to CrimLR57.3 and 57.4.

CrimLR16.1. Standing Order for Routine Discovery in Criminal Cases.

The government and the defendant shall make available discovery materials pursuant to Fed. R. Crim. P. 16 and 26.2 and 18 U.S.C. § 3500, which are within their possession, custody, or control, the existence of which is known, or by the exercise of due diligence may become known to the attorneys as hereinafter provided. This local rule shall not be construed as obligating the government or the defendant to disclose materials protected from disclosure by 18 U.S.C. § 3500 or Fed. R. Crim. P. 16 or 26.2.

(a) The Government's Duty. A request for discovery set out in this paragraph and in Fed. R. Crim. P. 16 is entered for the defendant to the government by this rule so that the defendant need not make a further request for such discovery. If the defendant does not request such discovery, he or she shall file a notice to the government that he or she does not request such

discovery within five (5) days after arraignment. If such a notice is filed, the government is relieved of any discovery obligations to the defendant imposed by this paragraph or Fed. R. Crim. P. 16. If the defendant does not file such a notice, within seven (7) days after arraignment unless otherwise ordered by the court or promptly upon subsequent discovery, the government permit the defendant to inspect and copy or photograph, or, in the case of the defendant's criminal record, shall furnish a copy, and provide the information listed in the subparagraphs enumerated immediately below. Upon providing the information required in the enumerated subparagraphs below, the government shall file and serve notice of compliance with discovery mandated under this paragraph.

1. Any relevant written or recorded statements made by the defendant, or copies thereof, within the possession, custody, or control of the government, the existence of which is known, or by the exercise of due diligence may become known, to the attorney for the government;

2. The substance of any oral statement that the government intends to offer in evidence at the trial made by the defendant whether before or after the arrest in response to interrogation by any person then known to the defendant to be a government agent;

3. Recorded testimony of the defendant before a grand jury that relates to the offense charged;

4. A copy of the defendant's prior criminal record, if any, which is within the possession, custody, or control of the government;

5. All books, papers, documents, photographs, tangible objects, buildings, or places, or copies of portions thereof, that are within the possession, custody, or control of the government, and that are material to the preparation of the defense or are intended for use by the government as evidence in chief at trial, or were obtained from or belong to the defendant;

6. Any results or reports of physical or mental examinations, and of scientific tests or experiments, or copies thereof that are material to the preparation of the defense or are intended for use by the government as evidence in chief at the trial;

7. Brady material, as it shall be presumed that defendant has made a general Brady v. Maryland, 373 U.S. 83 (1963) request. Specific requests shall be made in writing to the government or by motion;

8. Photographs used in any photograph line-up, show-up, photospread, or any other identification proceeding, or if no such photographs can be produced, the government shall notify the defendant whether any such identification proceeding has taken place and the results thereof;

9. Any search warrants and supporting affidavits that resulted in the seizure of evidence that is intended for use by the government as evidence in chief at trial or that was obtained from or belongs to the defendant;

10. A statement as to whether the defendant was the subject of any electronic eavesdrop, wiretap, or any other communications of wire or oral interception as defined by 18 U.S.C. § 2510, et seq., in the course of the investigation of the case.

(b) The Defense Duty. Unless the defendant has filed notice that he or she does not request discovery under paragraph (a) of this rule or Fed. R. Crim. P. 16, or unless otherwise ordered by the court, within thirty (30) days after the filing of the notice of compliance with discovery under paragraph (a) above, or promptly on subsequent discovery, the defendant shall: (1) inform the government if any of the following exists; and (2) shall permit the government to inspect and copy or photograph the information listed in the subparagraphs enumerated immediately below. Upon providing the information required by this paragraph, the defendant shall file and serve notice of compliance with discovery mandated under this paragraph.

1. All books, papers, documents, photographs, tangible objects, or copies or portions thereof, that are within the possession, custody or control of the defendant and that the defendant intends to introduce as evidence in chief at the trial;

2. Any results or reports of physical or mental examinations and of scientific tests or experiments made in connection with the particular case, or copies thereof, within the possession or control of the defendant, that the defendant intends to introduce as evidence in chief at the trial;

3. If a defendant intends to rely upon the defense of insanity at the time of the alleged crime, or intends to introduce expert testimony relating to a mental disease, defect, or other condition bearing upon the issue of whether the defendant had the mental state required for the offense charged, the defendant shall give written notice thereof to the government and file a copy of such notice with the clerk.

(c) Continuing Duty to Disclose. If, prior to or during trial, a party discovers additional evidence or material previously requested or ordered, which is subject to discovery or inspection under this rule, the defendant shall promptly notify the other party or the defendant's attorney or the court of the existence of the additional evidence or material.

(d) Sanctions for Failure to Comply with Request.

1. **Against a Party.** If at any time during the course of the proceedings it is brought to the attention of the court that a party has failed to comply with this rule, the court may order such party to permit the discovery or inspection, grant a continuance, prohibit the party from introducing evidence not disclosed, or may enter such order as it deems just under the circumstances.

2. **Against an Attorney for a Party.** If at any time during the course of the proceedings it is brought to the attention of the court that an attorney for a party has unjustifiably failed to comply with this rule, which failure was after a specific request for compliance with this rule by opposing counsel specifically for the material which is the subject of non-compliance, in addition to the sanctions imposed against the party as provided above, the court may punish any such counsel or attorney with a fine not exceeding \$250.00. The imposition of such a fine is not to be deemed a finding of contempt.

(e) Statement of Witnesses.

1. **Order of Production.** Production of statements of witnesses by the government and the defendant pursuant to Fed. R. Crim. P. 26.2 and 18 U.S.C. § 3500 is hereby ordered.

2. **Time of Production.** Statements of witnesses including material covered by Fed. R. Crim. P. 6 under this rule are to be exchanged:

(i) During the time of trial as provided by Fed. R. Crim. P. 26.2 and 18 U.S.C. § 3500 or,

(ii) At any time if the parties agree.

(f) Statements of Witnesses at Suppression Hearing.

Production of statements of witnesses at a hearing on a motion to suppress evidence will be governed by Fed. R. Crim. P. 12(I) .

(g) Impeachment Material.

1. **Order of Production.** The production of the following is hereby ordered: Cooperation agreements, plea agreements, impeachment material, promises of leniency, under Giglio v. United States, 405 U.S. 150 (1972), and its progeny, and records of criminal convictions which may be admissible under Fed. R. Evid. 609.

2. **Time of Production.** Impeachment material under this rule shall be provided as ordered by the court.

(h) Further Discovery Not Covered by This Rule.

1. **Further Discovery.** Discovery of all material not ordered pursuant to this rule shall be by motion.

2. **Time for Filing Further Discovery Motions.**

(i) **By the Defendant.** Any defense motions for additional discovery shall be filed no later than ten (10) days after the government files notice of compliance with discovery under paragraph (a) of this rule. Such motions may only be filed after this time when (1) the motion sets forth the specific facts and circumstances giving rise to good cause for filing out of time, and (2) the court finds good cause is in fact shown.

(ii) **By the Government.** Any government motions for additional discovery shall be filed no later than ten (10) days after the defendant files notice of compliance with discovery under paragraph (b) of this rule. Such motions may only be filed after this time when (1) the motion sets forth the specific facts

and circumstances giving rise to good cause for filing out of time, and (2) the court finds good cause is in fact shown.

CrimLR17.1.1. Pretrial Agenda.

The trial district judge shall conduct at least one pretrial conference. Where practicable, such conference shall be held no later than seven (7) calendar days prior to trial. Other pretrial conferences may be conducted by the trial district judge at the request of any of the parties or on the court's own motion. The agenda at the pretrial conference shall consist of any or all of the following items, so far as practicable:

(a) Date of production of statements or reports of witnesses under the Jencks Act, 18 U.S.C. § 3500;

(b) Date of production of grand jury testimony of witnesses intended to be called at the trial;

(c) Date of production of evidence favorable to the defendant on the issue of guilt or punishment, as required by Brady v. Maryland, 373 U.S. 83 (1963), and related authorities and impeachment material, cooperation agreements, plea agreements, promises of leniency, and records of criminal convictions, required by Giglio v. United States, 405 U.S. 150 (1972), and its progeny;

(d) Stipulation of facts that may be deemed proved at the trial without further proof by either party;

(e) Appointment by the court of interpreters under Fed. R. Crim. P. 28;

(f) Dismissal of certain counts and elimination from the case of certain issues, e.g., insanity, alibi, and statute of limitations;

(g) Severance of trial as to any co-defendant or counts, and joinder of any related cases;

(h) Use or identification of informant, use of line-up or other identification procedures, use of evidence of prior convictions of defendant or of any witness;

(i) Pretrial resolution of objections to exhibits or testimony to be offered at trial;

(j) Preparation of trial briefs on controversial points of law likely to arise at trial;

(k) Scheduling of the trial and of witnesses;

(l) Submission of jury instructions and voir dire jury questions;

(m) The government's intention to introduce evidence of other crimes, wrongs or acts under Fed. R. Evid. 404(b);

(n) Whether there are percipient witnesses whom the government does not intend to call in its case-in-chief.

CrimLR17.1.2. Disclosure of Witnesses and Exhibits.

Except for good cause shown, the parties shall at a pretrial conference conducted at least seven (7) calendar days prior to trial:

(a) Exchange the names of witnesses intended to be called to testify at trial in each respective case-in-chief;

(b) Exchange lists of exhibits and copies of the documentary exhibits.

CrimLR17.1.3. Pretrial Orders.

After conducting the pretrial conference, the trial district judge may make such pretrial order or orders relating to any of the matters discussed.

CrimLR30.1. Jury Instructions.

See the text of Chapter I, General and Civil Rules, LR51.1 which text and rule is incorporated herein in its entirety.

CrimLR32.1. Sentencing Procedure.

The following rules apply in all cases where presentence investigations and reports are ordered by a district judge or magistrate judge:

(a) To assist the court in fulfilling the standards for acceptance of plea agreements as set forth in the U.S. Sentencing Guidelines Manuals § 6B1.3 (1995), the parties shall be responsible for the following:

1. In Fed. R. Crim. P. 11(e)(1)(A), plea agreements wherein the agreement includes dismissal of charges or an agreement not to pursue potential charges, the written plea agreement shall include a statement, on the basis of the information then known by the parties, as to why the remaining charges adequately reflect the seriousness of the actual offense behavior and why accepting the agreement will not undermine the statutory purposes of sentencing;

2. In Fed. R. Crim. P. 11(e)(1)(B), plea agreements wherein the agreement includes a nonbinding sentencing recommendation, the written plea agreement shall include a statement, on the basis of the information then known by the parties, that the recommended sentence is within the applicable guideline range, or shall set forth justifiable reasons why the recommended sentence departs from the presumed applicable guideline range;

3. In Fed. R. Crim. P. 11(e)(1)(C), plea agreements wherein the agreement includes a specific sentence that is binding upon the court, the written plea agreement shall include a statement, on the basis of the information then known by the parties, that the recommended sentence is within the applicable guideline range, or shall set forth justifiable reasons why the recommended sentence departs from the presumed applicable guideline range.

(b) As part of the plea agreement, it is appropriate for the parties to stipulate to factors that affect the sentence computation. Any such stipulation shall be set forth in the manner prescribed by U.S. Sentencing Guidelines Manuals § 6B1.4 (1995).

(c) A presentence investigation and report to the court will be conducted before the imposition of sentence, except as otherwise permitted by U.S. Sentencing Guidelines Manual § 6A1.1 (1995). The defendant may not waive preparation of a presentence report. The probation officer shall report the facts disclosed by the presentence investigation in the presentence report, and

the parties shall not be permitted to stipulate to the elimination of relevant facts from the report.

(d) The parties shall review the completed presentence report and offer their respective objections. The probation officer will then revise the report where appropriate and attempt to resolve disputed facts. To provide sufficient time for this process, the sentencing date, except for good cause, shall be set not less than ninety-eight (98) calendar days following an adjudication.

(e) No less than thirty-five (35) calendar days prior to the sentencing date, the probation officer shall provide a copy of the proposed presentence report to counsel for the government and to counsel for the defendant. Defense counsel shall be responsible for disclosing the report to the defendant. The presentence report shall be deemed to have been provided to counsel when a copy of the report is physically delivered or one (1) day after the report's availability is orally communicated or three (3) days after a copy of the report is mailed.

(f) Within fourteen (14) calendar days after receiving the report, counsel for the defendant and the government shall file their sentencing statement(s), which shall include objections, if any, concerning factual information, sentencing classification, sentencing guideline ranges and policy statements which remain in dispute. A copy shall be submitted to the Probation Department and served upon all other counsel. Counsel for the government and counsel for the defendant shall seek to resolve the controverted issues with respect to the contents of the report or items omitted therefrom. Each sentencing statement will also include:

1. All sentencing factors, facts, and other matters material to sentencing that remain in dispute, including a statement, and calculation if appropriate, showing how the dispute affects the calculation of the applicable guidelines range.

2. Whether an evidentiary hearing is requested and, if so, an estimate of the time required for such hearing and a summary of the evidence to be produced.

Upon receipt of any such objections, the probation officer shall conduct any further investigation and make any revisions to the presentence report that are deemed necessary.

(g) Not less than eleven (11) calendar days prior to the sentencing date, the completed presentence report shall be submitted to the court and to all parties. This report shall be accompanied by an addendum setting forth any objections raised by counsel that are unresolved, and any written materials provided by counsel in support of their respective positions. Any earlier proposed presentence reports furnished to counsel shall be returned to the probation officer.

(h) At or prior to the sentencing hearing, the court shall address each controverted matter pursuant to Fed. R. Crim. P. 32(c)(3)(D), and make a tentative finding as to each such matter or make a determination that no such finding is necessary because the controverted matter will not be taken into account in sentencing. The parties shall be prepared at the sentencing hearing to proceed with evidence and argument for the resolution of any remaining disputed matters upon which the court intends to rely. The court shall provide a reasonable opportunity to the parties for the submission of oral or written objections to the court's findings and determinations. For good cause, the court may continue the sentencing hearing for a reasonable time.

(i) The courtroom manager shall be responsible for recording the court's findings and determinations, and shall prepare an appropriate minute order, which will thereafter be appended to all copies of the presentence report. A transcript of the court's findings and determinations at the sentencing hearing may be filed as the required minute order.

(j) Except as otherwise ordered by the court, all copies of presentence reports that have been furnished to counsel shall be returned to the probation officer upon the expiration of the time within which to appeal. A copy of the completed presentence report shall be filed with the clerk and kept under seal as part of the record of the case. A copy of the confidential recommendation of the probation officer shall be filed and sealed separately and shall not be disclosed to anyone other than the presiding judge.

(k) In the case of a pro se defendant, reference to counsel for defendant shall be taken to refer to the pro se defendant.

1. Except for good cause, any motion for a departure pursuant to the U.S. Sentencing Guidelines Manual shall be filed not less than fifteen (15) days prior to the scheduled sentencing date. A copy of a motion for a departure, as well as any sentencing memorandum, shall be served on the Probation Department.

CrimLR35.1. Responses to Motions for Reconsideration and Reduction of Sentence.

No response to a motion for a reduction of sentence is required unless requested by the court. A motion for reduction of sentence will ordinarily not be granted in the absence of such a request.

CrimLR44.1. Right to and Appointment of Counsel.

If a defendant appearing without counsel in a criminal proceeding desires to obtain his or her own counsel, a reasonable continuance for arraignment, not to exceed one week at any one time, shall be granted for that purpose. If the defendant requests appointment of counsel by the court, or fails for an unreasonable time to appear with his or her own counsel, the assigned district judge or magistrate judge shall, subject to the applicable financial eligibility requirements, appoint counsel, unless the defendant elects to proceed without counsel and signs and files the court-approved form of waiver of right to counsel. In an appropriate case, the district judge or magistrate judge may nevertheless designate counsel to advise and assist a defendant who elects to proceed without counsel to the extent the defendant might thereafter desire. Appointment of counsel shall be made in accordance with the plan of this court adopted pursuant to the Criminal Justice Act of 1964 on file with the clerk.

CrimLR44.2. CJA Voucher Reduction.

No judicial officer or clerk shall reduce the payment of any CJA voucher without first communicating the reasons for the reduction in writing to the affected attorney and giving the attorney an opportunity to respond.

CrimLR46.1. Appearance Bond.

A person required to give bail shall execute the type of bond or promise to appear required by the judicial officer specifying the conditions thereof. The bond or promise to appear shall substantially conform in both form and content to the appropriate form approved by the court.

CrimLR46.2. Posting Security.

When the release of a defendant is conditioned upon the deposit of cash or other security with the court, such deposit shall be made with the clerk or the marshal, as authorized.

CrimLR46.3. Types of Bonds in Criminal Cases.

A person charged with a criminal offense in which a secured bond has been required may, in the discretion of the court, furnish in lieu of cash a commercial surety bond or a secured interest in real estate, which shall be referred to as a "property bond."

(a) Surety Bonds. Surety bonds for the appearance of a person charged with a criminal offense shall require the execution of a bail bond or equivalent security as provided in LR65.1.2.

(b) Property Bonds. For real property to qualify as adequate security:

1. The real property, whether located within the State of Hawaii or a sister state, territory, or commonwealth, must have an equity value, after deducting the outstanding balance of any existing lien or encumbrance, in an amount not less than the principal amount of the bail set.

2. The title owner of the property shall furnish a mortgage on the property in favor of the clerk and shall deliver to the court such mortgage note as security for the bond.

3. Prior to release of the person charged, the mortgage shall be recorded in the State of Hawaii Bureau of Conveyances or filed with Registrar of the State Land Court. In the event that the property is located in a sister state, territory, or commonwealth, the mortgage or deed of trust shall

be recorded in the designated office required by the law of such state, territory, or commonwealth, and evidence thereof shall be furnished to the court.

4. The value of the property must be established by evidence satisfactory to the court.

CrimLR56.1. The District Court Always in Session.

The district court shall always be in session. The chief judge shall establish an evening and weekend duty roster for judicial officers, one of whom shall be available twenty-four (24) hours a day for the purpose of emergencies, including, but not limited to, warrant applications and bail hearings. The emergency duty phone number shall be listed by the clerk and shall be available to all members of the bar.

CrimLR57.1. Duties of Magistrate Judges.

In criminal cases, each magistrate judge shall exercise all the powers conferred or imposed by law and the Federal Rules of Criminal Procedure and may:

(a) Exercise general supervision of criminal calendars when requested by a district judge.

(b) Conduct arraignments, enter not guilty pleas, and schedule trial dates.

(c) Receive grand jury returns in accordance with Fed. R. Crim. P. 6(f).

(d) Conduct preliminary hearings, removal and necessary procedures leading to potential revocation of probation.

(e) Preside over misdemeanor cases in accordance with these rules.

(f) Issue subpoenas, writs of habeas corpus ad testificandum or ad prosequendum or other orders necessary to obtain the presence of parties, witnesses, or evidence needed for court proceedings, or to obtain services sought by indigent defendants under the Criminal Justice Act, 18 U.S.C. § 3006A.

(g) Order the exoneration or forfeiture of bonds.

(h) Perform all functions specified in 18 U.S.C. §§ 4107, 4108, and 4109 regarding prisoner transfers.

(i) Hear motions and enter orders relative to mental competency under 18 U.S.C. § 4241 et seq.

(j) Conduct all initial bail and detention proceedings pursuant to 18 U.S.C. § 3142 et seq.

(k) Conduct hearings on discovery motions and, when designated by the district judge, conduct hearings on any other pretrial motions.

(l) Accept waivers of indictment, pursuant to Fed. R. Crim. P. 7(b).

(m) Perform any additional duty not inconsistent with these rules or with the Constitution and Laws of the United States.

CrimLR57.2. Assignment of Criminal Cases to Magistrate Judge.

(a) **Misdemeanor Cases.** All misdemeanor cases shall be assigned to a magistrate judge upon the filing of an information, complaint, or violation notice, or upon the return of an indictment.

(b) **Felony Cases.** Upon the return of an indictment for the filing of an information or complaint, all felony cases shall be assigned to a magistrate judge for the conduct of bail or detention proceedings, preliminary hearings, arraignment, and entry of not guilty pleas as are permitted by these rules.

CrimLR57.3. Magistrate Judges; Decision by a Magistrate Judge on Non-Dispositive Pretrial Matters.

(a) **Orders by the Magistrate Judge.** Any non-dispositive pretrial matter assigned to a magistrate judge pursuant to 28 U.S.C. § 636(b)(1)(A) shall be decided by a written order filed at least fourteen (14) days prior to the date upon which the case is then set for trial. Any motion still pending within fourteen (14) days of trial, in which no decision or order has been filed, will be deemed to be pending before the district judge, and any order or decision must be made by the district judge and not by the magistrate judge.

(b) Appeals from a Magistrate Judge's Decision on Non-Dispositive Matters.

1. Any party may appeal from any pretrial non-dispositive matter assigned to a magistrate judge pursuant to 28 U.S.C. § 636(b)(1)(A). Such an appeal shall be entitled "Appeal and Request to the District Court to Reconsider a Pretrial Matter Determined by the Magistrate Judge" and shall be filed within eleven (11) days after the date of filing of the magistrate judge's written order. A memorandum of points and authorities or supporting memorandum of law must be filed in every appeal filed under this section, which memorandum must accompany the filing of the appeal unless the district court, in its discretion, permits a later filing of such memorandum. Filing of a response shall be governed by LR7.4. No reply in support of an appeal shall be filed without leave of court.

2. The clerk shall serve all parties with any written order by the magistrate judge under this rule. It shall be presumed that such orders are received by the parties within three (3) days of mailing by the clerk.

CrimLR57.4. Magistrate Judges; Dispositive Pretrial Motions.

(a) All dispositive motions in criminal cases shall be heard by a district judge, unless specifically designated to a magistrate judge.

1. In any dispositive motion assigned to a magistrate judge, the magistrate judge must file written proposed findings and recommendations at least fourteen (14) days prior to the date upon which the case is then set for trial. If such proposed written findings and recommendations have not been filed prior to that date, the matter will immediately be set by the clerk of the court for a de novo hearing before the district judge and no proposed findings and recommendations may be filed by the magistrate judge.

2. The clerk shall serve all parties with copies of reports and recommendations by the magistrate judge under this rule. It shall be presumed that such reports and recommendations are received by the parties within three (3) days of mailing by the clerk.

(b) Objections to Reports and Recommendations in Dispositive Matters. A magistrate judge may be assigned dispositive pretrial matters pursuant to 28 U.S.C. § 636 (b) (1) (B). Any party who objects to any portion of a magistrate judge's proposed findings and recommendations must serve and file written objections to such proposed findings and recommendations within eleven (11) days after the date of service of the proposed order, which the clerk shall serve on all parties. An appropriate statement of points and authorities relied on or memorandum of law must be filed in support of such objections, which statement or memorandum must be filed at the same time as the objections, unless the district court, in its discretion, permits a later filing. Filing of a response shall be governed by LR7.4. No reply in support of objections shall be filed without leave of court.

CrimLR57.5. Shortening of Time to File Appeals and Objections to Decisions by a Magistrate Judge.

If the parties agree, and with the consent of the magistrate judge, the time for appeal from non-dispositive decisions of the magistrate judge, and/or the time for filing objections to proposed findings and recommendations, may be shortened to five (5) days. In such a case, the oral or written order of the magistrate judge described in CrimLR57.3(a) above, or the written proposed findings and recommendations described in CrimLR57.3(b) above, may be filed and served not less than seven (7) days before the date upon which the trial is then set. The consent of the parties, however, may not operate retroactively, and must be obtained prior to the fourteen (14) days before the date upon which the trial is then set.

CrimLR57.6. Orders Filed After the Time Provided by This Rule.

Notwithstanding any other provision of these rules, if a magistrate judge makes a written or oral ruling on a non-dispositive pretrial motion after the date set in this rule, such orders or findings shall have the same effect as if they were done in a timely fashion, unless a party makes an objection to their untimely nature to the district court within five (5) days of being served with a copy of the written order, or written proposed findings and recommendations, or of being informed of an oral order.

CrimLR57.7. Expedited Appeals from Magistrate Judge Rulings.

With the exception of CrimLR57.8 governing expedited appeals of detention or release orders, any other provision of these rules notwithstanding, a defendant or the government may file a Notice of an Expedited Appeal to the district judge from any oral or written ruling of the magistrate judge. Such a notice shall bear the caption "Notice of Expedited Appeal" and shall be accompanied by a declaration of counsel setting forth the reasons that such an expedited appeal is necessary, together with proof of service on the opposing party.

Upon receipt of the notice, the district judge shall promptly determine whether an expedited appeal is justified. If so, it shall set an expedited briefing schedule, or order an immediate hearing of the appeal without briefs.

CrimLR57.8. Appeal of Detention or Release Orders.

Any party is entitled to an expedited review of, or appeal from, an order of a magistrate judge releasing or detaining a defendant pursuant to the Bail Reform Act of 1984, 18 U.S.C. § 3143 et seq. Such an appeal or review shall be de novo.

In the case of an oral or written order detaining or releasing a defendant, the district judge on request of any party shall hear the appeal on the same day the magistrate judge ordered the detention or release except for good cause, in which case the appeal shall be heard within twenty-four (24) hours.

CrimLR57.9. Appearance and Withdrawal of Retained Counsel.

An attorney who has been retained and has appeared in a criminal case may thereafter withdraw only upon notice to the defendant and all parties and upon an order of court finding that good cause exists and granting leave to withdraw. Until such leave is granted, the retained attorney shall continue to represent the defendant until the case is dismissed, the defendant is acquitted, or, if convicted, the time for making post-trial motions and for filing notice of appeal, as specified in Fed. R. App. P. 4(b), has expired, and until counsel has satisfied the requirements of Fed. R. App. P. 3(d), Appendix.

CrimLR58.1. Magistrate Judges; Disposition of Misdemeanor Cases - 18 U.S.C. § 3401.

A magistrate judge may:

(a) Try persons accused of, and sentence persons convicted of, misdemeanors committed within this district in accordance with 18 U.S.C. § 3401;

(b) Direct the probation service of the court to conduct a presentence investigation in any misdemeanor case;

(c) Conduct a jury trial in any misdemeanor case where the defendant so requests and is entitled to trial by jury under the Constitution and Laws of the United States;

(d) Dispose of minor offenses that are transferred to this district under Fed. R. Crim. P. 20.

CrimLR58.2. Trial of Misdemeanor Offenses.

Subject to the limitation of 18 U.S.C. § 3401, magistrate judges are specifically designated to try persons accused of, and sentence persons convicted of, misdemeanor offenses committed within this district. In addition, magistrate judges may dispose of misdemeanor offenses that are transferred to this district under Fed. R. Crim. P. 20.

CrimLR58.3. Appeal from Misdemeanor Conviction by Magistrate judge.

(a) **Notice of Appeal.** Pursuant to 18 U.S.C. § 3402 and Fed. R. Crim. P. 58(g)(2), a defendant who has been convicted by a magistrate judge may appeal to a district judge by filing a notice of appeal within ten (10) days after entry of judgment.

(b) **Record.** The record on appeal shall consist of the original papers and exhibits filed with the court and the mechanical or stenographic recording of the proceedings. If a reporter was in attendance before the magistrate judge, a transcript, if desired, shall be ordered as prescribed by Fed. R. App. P. 10(b). The magistrate judge may, if requested, order that a transcript be prepared from a mechanical recording in which case the transcript will be prepared as directed by the magistrate judge.

Within thirty (30) days after a transcript has been ordered, the original and one copy shall be filed with the magistrate judge and all recordings shall be returned to the magistrate judge. All other documents and exhibits shall be held by the magistrate judge pending the receipt of the transcript.

Upon receipt of the transcript, the record on appeal shall be deemed complete and the magistrate judge shall forthwith transmit the record to the clerk.

If no transcript is ordered within ten (10) days after the notice of appeal is filed, or if the parties advise the magistrate judge that no transcript will be ordered, the record on appeal shall be deemed complete and the magistrate judge shall forthwith transmit the record to the clerk without a transcript.

(c) Assignment to a District Judge. The clerk at the time of filing of the record shall assign the appeal to a district judge in the same manner as any indictment and shall notify the parties of the filing of the record and of the time for filing of briefs in accordance with this rule.

(d) Abbreviated Appeals. An "abbreviated appeal" may be taken, if elected by the appellant, in which case the appeal will be considered without briefs. In the case of an abbreviated appeal, the appellant shall make an election to proceed by abbreviated appeal at the time of filing notice of appeal and may do so by including the election as part of the notice.

(e) Briefs. When the appellant has not elected to proceed without briefs by an "abbreviated appeal," the appellant shall serve and file a brief within twenty-one (21) days after the filing of the record with the clerk. The appellee shall serve and file a responsive brief within twenty-one (21) days after service of the brief of the appellant. The appellant may serve and file a reply brief within seven (7) days after service of the brief of the appellee. Each brief shall not exceed twenty (20) pages in length unless otherwise ordered by the court. These periods may be altered by order of the assigned district judge.

(f) Notice of Hearing. Oral argument may be scheduled by order of the court.

CHAPTER III - ADMIRALTY RULES

A.1. Scope.

The local admiralty rules apply only to civil actions that are governed by Fed. R. Civ. P., Supp. R. A (Supplemental Rule or Rules). All other local rules are applicable in these cases, but to the extent that another local rule is inconsistent with the applicable local admiralty rules, the local admiralty rules shall govern.

A.2. Officers of Court.

As used in the local admiralty rules, "judicial officer" means a district judge or a magistrate judge; "clerk" means the Clerk of the District Court and includes deputy clerks; and "marshal" means United States Marshal and includes deputy marshals.

B.1. Affidavit that Defendant Is Not Found Within the District.

The affidavit required by Fed. R. Civ. P., Supp. R. B(1) to accompany the complaint shall list the efforts made by and on behalf of plaintiff to find and serve the defendant within the district.

C.1. Undertaking in Lieu of Arrest.

If, before or after commencement of suit, plaintiff accepts any written undertaking to respond on behalf of the vessel or other property sued in return for his foregoing the arrest or stipulating to the release of such vessel or other property, the undertaking shall become a defendant in place of the vessel or other property sued and be deemed referred to under the name of the vessel or other property in any pleading, order or judgment in the action referred to in the undertaking. The preceding shall apply to any such undertaking, subject to its own terms and whether or not it complies with local rules and has been approved by a district judge or clerk.

C.2. Intangible Property.

The summons issued pursuant to Fed. R. Civ. P., Supp. R. C(3) shall direct the person having control of intangible

property to show cause no later than ten (10) days after service why the intangible property should not be delivered to the court to abide the judgment. A judicial officer for good cause shown may lengthen or shorten the time. Service of the summons has the effect of an arrest of the intangible property and brings it within the control of the court. The person who is served may deliver or pay over to the marshal the intangible property proceeded against to the extent sufficient to satisfy the plaintiff's claim. If such delivery or payment is made, the person served is excused from the duty to show cause. Claimants of the property may show cause as provided in Fed. R. Civ. P., Supp. R. C(6) why the property should not be delivered to or retained by the court.

C.3. Notice of Action and Arrest.

(a) Publication. The notice required by Fed. R. Civ. P., Supp. R. C(4) shall be published once in a newspaper to be specified by the United States District Court for the District of Hawaii, and plaintiff's attorney shall file a copy of the notice as it was published with the clerk. The notice shall contain:

1. The court, title, and number of the action;
2. The date of arrest;
3. The identity of the property arrested;
4. The name, address, and telephone number of the attorney for plaintiff;
5. A statement that the claim of a person who is entitled to possession or who claims an interest pursuant to Fed. R. Civ. P., Supp. R. C(6) must be filed with the clerk and served on the attorney for plaintiff within ten (10) days after publication;
6. A statement that an answer to the complaint must be filed and served within twenty (20) days after publication, and that otherwise, default may be entered and condemnation ordered;
7. A statement that applications for intervention under Fed. R. Civ. P. 24, by persons claiming maritime liens or other interests, shall be filed within the time fixed by the court; and

8. The name, address, and telephone number of the marshal.

(b) Filing of Proof of Publication. Plaintiff shall cause to be filed with the clerk no later than thirty (30) days after the date of publication sworn proof of publication by or on behalf of the publisher of the newspaper in which notice was published, together with a copy of the publication or reproduction thereof.

C.4. Default in Action In Rem.

(a) Notice Required. A party seeking a default judgment in an action *in rem* must show that due notice of the action and arrest of the property has been given in accordance with Fed. R. Civ. P., Supp. R. C(4).

(b) Persons with Recorded Interests. (1) If the defendant property is a vessel documented under the laws of the United States, the plaintiff must attempt to notify all persons named in the United States Coast Guard certificate of ownership. (2) If the defendant property is of such character that there exists a governmental registry of recorded property interests or security interests in the property, the plaintiff must attempt to notify all persons named in the records of each such registry.

C.5. Entry of Default and Default Judgment.

After the time for filing an answer has expired, the plaintiff may apply for entry of default under Fed. R. Civ. P. 55(a). Default will be entered upon showing that:

(a) notice has been given as required by LRC.4(a), and

(b) notice has been attempted as required by LRC.4(b), where appropriate, and

(c) the time for answer has expired, and

(d) no one has appeared to claim the property. Judgment may be entered, under Fed. R. Civ. P. 55(b), at any time after default has been entered.

D.1. Return Date.

In an action under Fed. R. Civ. P., Supp. R. D, a judicial officer may order that the claim and answer be filed on a date earlier than twenty (20) days after arrest. The order may also set a date for expedited hearing of the action.

E.1. Itemized Demand for Judgment.

The demand for judgment in every complaint filed under Fed. R. Civ. P., Supp. R. B or C, except a demand for salvage award, shall allege the dollar amount of the debt of damages for which the action was commenced. The demand for judgment shall also allege the nature of other items of damage. The amount of the special bond posted under Fed. R. Civ. P., Supp. R. E(5)(a) may be based upon these allegations.

E.2. Verification of Pleadings.

Every complaint in Fed. R. Civ. P., Supp. R. B, C, and D actions shall be verified upon oath or solemn affirmation, or in the form provided by 28 U.S.C. § 1746, by a party or by an authorized officer of a corporate party in accordance with Hawaii law. A verification not made by a party or authorized corporate officer will be deemed to have been made by the party as if verified personally. If the verification was not made by a party or authorized corporate officer, any interested party may move, with or without requesting a stay, for the personal oath of a party or an authorized corporate officer, which shall be procured by commission or as otherwise ordered.

E.3. Review by Judicial Officer.

(a) Authorization to Issue Process. Except in actions by the United States for forfeitures, before the clerk will issue a summons and process of arrest, attachment, or garnishment to any party, including intervenors, under Fed. R. Civ. P., Supp. R. B and C, the pleadings, the affidavit required by LRB.1, and accompanying supporting papers must be reviewed by a judicial officer. If the judicial officer finds the conditions set forth in Rules B or C appear to exist, as appropriate, the judicial officer shall authorize the clerk to issue process. Supplemental process or alias process may thereafter be issued by the clerk upon application without further order of the court.

(b) Exigent Circumstances. If the plaintiff or his attorney certifies by affidavit submitted to the clerk that exigent circumstances make review impracticable, the clerk shall issue a summons and warrant of arrest or process of attachment and garnishment. In actions by the United States for forfeitures for federal statutory violations, the clerk, upon filing of the complaint, shall forthwith issue a summons and warrant for the arrest of the vessel or other property without requiring a certification of exigent circumstances.

(c) Personal Appearance. Unless otherwise required by the judicial officer, the review by the judicial officer will not require the presence of the applicant or its attorney but shall be based upon the pleadings and other papers submitted on behalf of that party.

(d) Order. Upon approving the application of arrest, attachment, or garnishment, the judicial officer will issue an order to the clerk authorizing the clerk to issue an order for arrest, attachment, or garnishment. The form of the order of arrest, attachment, or garnishment shall be submitted with the other documents for review.

(e) Request for Review. Except in the case of exigent circumstances, application for review shall be made by filing a Notice of Request for Review in Accordance with Supplemental Rule B or C with the clerk and stating therein the process sought and any time requirements within which the request must be reviewed. The clerk shall contact the judicial officer to whom the matter is assigned to arrange for the necessary review. It will be the duty of the applicant to ensure that the application has been reviewed and, upon approval, presented to the clerk for issuance of the appropriate order.

E.4. Process Held in Abeyance.

If a party does not wish the process to be issued at the time of filing the action, the party shall request issuance of process be held in abeyance. It will not be the responsibility of the clerk or marshal to ensure that process is issued at a later date.

E.5. Service by Marshal Required.

Only a marshal shall arrest or attach a vessel, cargo, or other tangible property.

E.6. Instructions to the Marshal.

The party who requests a warrant of arrest or process of attachment or garnishment shall provide instructions to the marshal.

E.7. Property in Possession of United States Officer.

When the property to be attached or arrested is in the custody of an employee or officer of the United States, the marshal will deliver a copy of the complaint and warrant of arrest or summons and process of attachment or garnishment to that officer or employee if present, and otherwise to the custodian of the property. The marshal will instruct the officer or employee or custodian to retain custody to the property until ordered to do otherwise by a judicial officer.

E.8. Security for Costs.

In an action under the Supplemental Rules, a party may move upon notice to all parties for an order to compel an adverse party to post security for costs with the clerk pursuant to Fed. R. Civ. P., Supp. R. E(2)(b). Unless otherwise ordered, the amount of security shall be \$500.00. The party so ordered shall post the security with the clerk at the time the process is presented to the clerk for filing. A party who fails to post security when due may not participate further in the proceedings. A party may move for an order increasing the amount of security for costs.

E.9. Adversary Hearing.

The adversary hearing following arrest or attachment or garnishment that is called for in Fed. R. Civ. P., Supp. R. E(4)(f) shall be conducted upon three (3) days' written notice to plaintiff, unless otherwise ordered. This rule shall have no application to suits for seamen's wages when process is issued upon a certification of sufficient cause filed pursuant to 46 U.S.C. §§ 603 and 604 or to action by the United States for forfeitures.

E.10. Appraisal.

An order for appraisal of property so that security may be given or altered will be entered by the clerk at the request of any interested party. If the parties do not agree in writing upon an appraiser, a judicial officer will appoint the appraiser. The appraiser shall be sworn to the faithful and impartial discharge of the appraiser's duties before any federal or state officer authorized by law to administer oaths. The appraiser shall give one day's notice of the time and place of making the appraisal to counsel of record. The appraiser shall promptly file the appraisal with the clerk and serve it upon counsel of record. The appraiser's fee will be paid by the moving party, unless otherwise ordered or agreed that it is a taxable cost of the action.

E.11. Security Deposit for Arrest or Attachment of Vessels.

The first party who seeks arrest or attachment of a vessel or property aboard a vessel shall deposit with the marshal the sum estimated by the marshal to be sufficient to cover the expenses of the marshal including, but not limited to, dockage, keepers, maintenance, and insurance for at least ten (10) days. The marshal is not required to execute process until the deposit is made. The party shall advance additional sums from time to time as requested to cover the marshal's estimated expenses until the property is released or disposed of as provided in Fed. R. Civ. P., Supp. R. E.

E.12. Intervenor's Claims.

(a) **Presentation of Claim.** When a vessel or other property has been arrested, attached, or garnished, and is in the hands of the marshal or custodian substituted therefor, anyone having a claim against the vessel or property is required to present the claim by filing an intervening complaint, and not by filing an original complaint, unless otherwise ordered by a judicial officer. The clerk shall forthwith deliver a conformed copy of the complaint in intervention and the intervenor's warrant of arrest or process of attachment or garnishment to the marshal, who shall deliver the same to the vessel or custodian of the property. Intervenor's shall thereafter be subject to the rights and obligations of parties, and the vessel or property shall stand arrested, attached, or garnished by the intervenor. An

intervenor shall not be required to advance a security deposit to the marshal.

(b) Sharing Marshal's Fees and Expenses. An intervenor shall owe a debt to the first plaintiff, enforceable on motion, consisting of the intervenor's share of the marshal's fees and expenses in the proportion that the intervenor's claim bears to the sum of all the claims. If the plaintiff permits vacation of an arrest, attachment, or garnishment, remaining plaintiffs share the responsibility to the marshal for fees and expenses in proportion to the remaining claims and for the duration of the marshal's custody because of each claim.

E.13. Custody of Property.

(a) Safekeeping of Property. When a vessel, cargo, or other property is brought into the marshal's custody by arrest or attachment, the marshal shall arrange for adequate safekeeping, which may include the placing of keepers on or near the vessel. A substitute custodian in place of the marshal may be appointed by order of the court.

(b) Insurance. The marshal may procure insurance to protect the marshal, the deputies, keepers, and substitute custodians, from liabilities assumed in arresting and holding the vessel, cargo, or other property, and in performing whatever services may be undertaken to protect the vessel, cargo, or other property, and to maintain the court's custody. The party who applies for removal of the vessel, cargo, or other property to another location, for designation of a substitute custodian, or for other relief that will require an additional premium, shall reimburse the marshal therefor. The premiums charged for the liability insurance are taxable as administrative costs while the vessel, cargo, or other property is in custody of the court.

(c) Vessel Operations. Following arrest or attachment of a vessel, no cargo handling, repairs, or movement may be made without an order of court. The applicant for such an order shall give notice to the marshal and to all parties of record. Upon proof of adequate insurance coverage of the applicant to indemnify the marshal for liability, the court may direct the marshal to permit cargo handling, repairs, movement of the vessel, or other operations. Before or after the marshal has taken custody of a vessel, cargo, or other property, any party of record may move for an order to dispense with keepers or to

remove or place the vessel, cargo, or other property at a specified facility, to designate a substitute custodian, or for similar relief. Notice of the motion shall be given to the marshal and to all parties of record. The judicial officer shall require that adequate insurance on the property will be maintained by the successor to the marshal, before issuing the order to change arrangements.

(d) Claims by Suppliers for Payment of Charges. A person who furnishes supplies or services to a vessel, cargo, or other property in custody of the court who has not been paid and claims the right to payment as an expense of administration shall file an invoice with the clerk in the form of a verified claim at any time before the vessel, cargo, or other property is released or sold. The supplier must serve copies of the claim on the marshal, substitute custodian if one has been appointed, and all parties of record. The court may consider the claims individually or schedule a single hearing for all claims.

E.14. Sale of Property.

(a) Notice. Notice of sale of arrested or attached property shall be published in one or more newspapers to be specified in the order for sale. Unless otherwise ordered by a district judge upon a showing of urgency or impracticality or unless otherwise provided by law, such notice shall be published for at least six (6) days before the date of sale.

(b) Payment of Bid. Unless otherwise provided in the order, in all public auction sales by the marshal under orders of sale in admiralty and maritime claims, the marshal shall require of the last and highest bidder at the sale a minimum deposit in cash, certified check, or cashier's check, of the full purchase price if it does not exceed \$500.00, and otherwise \$500.00 or 10 percent of the bid, whichever is greater. The balance, if any, of the purchase price shall be paid in cash, certified check, or cashier's check within three (3) days after confirmation of the sale or within three (3) days of the dismissal of any opposition which may have been filed, exclusive of Saturdays, Sundays, and legal holidays. Notwithstanding the above, a plaintiff or intervening plaintiff foreclosing a properly recorded and endorsed preferred mortgage on, or other valid security interest in, the vessel may bid, without payment of cash, certified check or cashier's check, up to the total amount of the secured indebtedness as established by affidavit filed and served by that

party on all other parties no later than ten (10) days prior to the date of sale.

(c) Confirmation of Sale. A sale shall be confirmed by order of the court within five (5) court days but no sooner than three (3) court days after the sale unless an objection to the sale has been filed, in which case the court shall hold a hearing on the confirmation of the sale. The marshal shall transfer title to the purchaser upon the order of the court.

(d) Penalty for Late Payment of Balance. A successful bidder who fails to pay the balance of the bid within the time allowed under these rules, or a different time specified by the court, shall also pay the marshal the costs of keeping the property from the date payment of the balance was due to the date the bidder pays the balance and takes delivery of the property. Unless otherwise ordered by the court, the marshal shall refuse to release the property until this additional charge is paid.

(e) Penalty for Default in Payment of Balance. A successful bidder who fails to pay the balance of the bid within the time allowed is in default, and the court may at any time thereafter order a sale to the second highest bidder or order a new sale as appropriate. Any sum deposited by the bidder in default shall be applied to pay any additional costs incurred by the marshal by reason of the default, including costs incident to resale. The balance of the deposit, if any, shall be retained in the registry subject to further order of the court, and the court shall be given written notice of its existence whenever the registry deposits are reviewed.

(f) Opposition to Sale. A party filing an opposition to the sale, whether seeking the reception of a higher bid or a new public sale by the marshal, shall give prompt notice to all other parties and to the purchaser. Such party shall also, prior to filing an opposition, secure the marshal's endorsement upon it acknowledging deposit with the marshal of the necessary expense of keeping the property for at least five (5) days. Pending the court's determination of the opposition, such party shall also advance any further expense at such time and in such amounts as the marshal shall request, or as the court orders upon application of the marshal or the opposing party. Such expense may later be subject to taxation as costs. In the event of failure to make such advance, the opposition shall fail without necessity for affirmative action thereon by the court. If the

opposition fails, the expense of keeping the property during its pendency shall be borne by the party filing the opposition.

(g) Disposition of Deposits.

1. **Objection Sustained.** If an objection is sustained, sums deposited by the successful bidder shall be returned to the bidder forthwith. The sum deposited by the objector will be applied to pay the fees and expenses incurred by the marshal in keeping the property until it is resold, and any balance remaining shall be returned to the objector. The objector will be reimbursed for the expense of keeping the property from the proceeds of a subsequent sale.

2. **Objection Overruled.** If the objection is overruled, the sum deposited by the objector will be applied to pay the expense of keeping the property from the day the objection was filed until the day the sale is confirmed, and any balance remaining will be returned to the objector forthwith.

(h) Title to Property. Failure of a party to give the required notice of the action and arrest of the vessel, cargo, or other property, or required notice of the sale, may afford ground for objecting to the sale but does not affect the title of a bona fide purchaser of the property without notice of the failure.

CHAPTER IV - BANKRUPTCY RULES

TITLE AND APPLICABILITY OF RULES

LBR 1001-1. SCOPE OF RULES; SHORT TITLE

(a) **Scope of Rules.** The Federal Rules of Bankruptcy Procedure and Official Bankruptcy Forms, promulgated under 28 U.S.C. § 2075, together with these local rules govern practice and procedure in all bankruptcy cases and adversary proceedings in this district. These rules supersede all previous local bankruptcy rules for the District of Hawaii.

(b) **Relationship to District Court Rules.** These rules constitute Chapter IV of the Local Rules of the United States District Court for the District of Hawaii. They may be cited as LBR ____ - ____.

(c) **Relationship to Federal Rules of Bankruptcy Procedure.** These rules are divided into nine parts to be consistent in format with the Federal Rules of Bankruptcy Procedure. These rules supplement the Federal Rules of Bankruptcy Procedure and they shall be construed so as to be consistent with those rules and to promote the just, efficient, and economical determination of every bankruptcy case and adversary proceeding. The numbering of these rules attempts to conform to the uniform numbering system for local bankruptcy rules, approved by the Advisory Committee on Bankruptcy Rules, Committee on Rules of Practice and Procedure of the Judicial Conference of the United States. In most cases, a local rule relates to a similarly numbered federal rule.

(d) **Relationship to Federal Rules of Civil Procedure.** Whenever a Federal Rule of Civil Procedure is incorporated, it shall be incorporated as modified by the Federal Rules of Bankruptcy Procedure.

(e) **Effective Date.** These rules shall apply to all bankruptcy cases and adversary proceedings pending on the date of adoption.

(f) **Definitions.** As used in Chapter IV - Bankruptcy Rules, the word "court" refers to the United States Bankruptcy Court for the District of Hawaii, and not to any particular judge of the court; the word "judge" refers to any United States Bankruptcy

Judge; and the word "clerk" refers to the Clerk, United States Bankruptcy Court for the District of Hawaii.

LBR 1001-2. APPLICABILITY OF RULES FROM OTHER CHAPTERS

(a) **Incorporation of Rules from Other Chapters.** Except as hereinafter set forth or otherwise ordered by the court, the following rules from other chapters of these local rules shall apply in all bankruptcy cases and adversary proceedings:

- (A) LR 5.3 Identification of Original Filings;
- (2) LR 6.2 Extensions, Enlargements or Shortening of Time;
- (3) LR 7.5 Motions; Length of Briefs and Memoranda;
- (4) LR 7.6 Motions; Affidavits and Declarations;
- (5) LR 7.8 Motions; Uncited Authorities;
- 6. LR 10.1 Applicability of Rule on the Format of Papers; Effect of Noncompliance;
- 7. LR 10.2 Form of Papers; Copy (except (i) that any type size or type style requirements of subdivision (a) shall not apply to any of the Official or Procedural Bankruptcy Forms or any court-approved local form, and (ii) subdivision (e) shall not apply (see LBR 5005-5);
- 8. LR 10.3 Amended Pleadings;
- 9. LR 10.4 Stipulations;
- 10. LR 58.1 Entry of Judgments and Orders;
- 11. LR 79.1 Disposition of Exhibits and Depositions;
- 12. LR 83.1(e), (h) Attorneys; Admission to the Bar of this Court;
- 13. LR 83.5 Attorneys; Sanctions for Unauthorized Practice;

- 14. LR 83.7 Attorneys; Supervised Student Practice of Law;
- 15. LR 83.8 Broadcasting, Televising, Recording or Photographing Judicial and Grand Jury Proceedings (first sentence only); and
- 16. LR 83.10 Gratuities.

References in the incorporated rules to the United States District Court, the judge, the clerk, or "civil actions or proceedings" shall be treated as references to the United States Bankruptcy Court, the bankruptcy judge, the clerk of the Bankruptcy Court, or to "bankruptcy cases or adversary proceedings," as the case may be.

(b) Modification. The court may, in any bankruptcy case or adversary proceeding, direct that additional local rules from other chapters apply.

(c) Amendment. Local rules incorporated from other chapters of these local rules shall be the rules in effect on the effective date of these rules and as such other local rules are thereafter amended, unless otherwise provided by such amendment or by these rules.

PART I

LBR 1004-1. PETITION - PARTNERSHIP

Petition Filed by a Partnership. When a voluntary petition is filed by a partnership, there shall be attached to the petition, as an exhibit, a verified document evidencing the consent of all general partners to the filing of the petition.

LBR 1005-1. PETITION - CAPTION

(a) Names.

(1) If debtor is an individual: The full name shall be used, followed by all names, assumed names, trade names, or designations by or under which the debtor is or has been known or has conducted any business within the six years preceding the filing of the petition.

(2) If debtor is a general partnership: The words "a (domicile) general partnership" shall follow the name.

(3) If debtor is a limited partnership: The words "a (domicile) limited partnership" shall follow the name.

(4) If debtor is a corporation: The words "a (domicile) corporation" shall follow the name.

(b) Social Security or Tax Identification Number.

It is the responsibility of the debtor to ensure the accuracy of the Social Security or Tax Identification Number provided in the petition. If the debtor's original petition contains an incorrect Social Security or Tax Identification Number, the debtor shall promptly notify all creditors, equity security holders and parties in interest of the correct number.

LBR 1007-1. LISTS, SCHEDULES AND STATEMENTS

(a) Dismissal Upon Failure to File Required Schedules and Statements. In any voluntary case where schedules or a statement of financial affairs, required by 11 U.S.C. § 521(1), are not filed with the petition, the clerk is authorized to issue an order to satisfy the deficiency and to give notice that failure to file the missing schedules or statement within 15 days after the date the petition was filed, or some later date as the court directs, may result in dismissal of the case without further notice, unless on or before the filing deadline the debtor requests and is granted an extension of time to file the documents. An order dismissing the case pursuant to this provision may include a 180-day bar to refiling a subsequent petition pursuant to 11 U.S.C. § 109(g)(1).

(b) Extension of Time to File Schedules and Statements. A debtor may request an extension of time to file the schedules and statement of financial affairs by filing with the court a written motion stating the date the petition was filed, the date set for the first meeting of creditors, the new deadline being requested, and the reason the extension is needed. In addition to the requirements stated in Fed. R. Bankr. P. 1007(c), a request made in a Chapter 11 case shall be submitted to the Office of the United States Trustee for approval. A request made in a Chapter 13 case shall be submitted to the Chapter 13 Standing Trustee for

approval. A proposed order granting the extension shall be submitted with the motion.

LBR 1007-2. MAILING MATRIX

(a) A voluntary petition shall be accompanied by a matrix of names and addresses of all creditors, if known, and, if applicable, all equity security holders and parties in interest. (The form of the matrix is available from the clerk.)

(b) The mailing matrix may be submitted on disk or in other electronic form acceptable to the clerk. The clerk requests that any list containing 75 or more creditors, equity security holders and parties in interest be submitted on disk.

(c) The debtor shall certify upon submission of the schedules and statement of financial affairs that all creditors, equity security holders and parties in interest noted therein have been listed in the mailing matrix.

LBR 1009-1. AMENDMENTS TO LISTS AND SCHEDULES

(a) Amendment of Petition, Lists, Schedules, or Statements.

(1) A party filing an amended petition, list, schedule, or statement shall give notice of the amendment to all parties in interest and serve a copy of the notice of commencement of the case, the meeting of creditors, and any deadlines set by the court upon all added parties.

(2) When presented for filing, all amended lists and schedules must be accompanied by a certificate evidencing compliance with subsection (a)(1).

(b) **Exemptions.** If the schedule of exemptions is amended, the amending party shall serve a copy of the amendment upon all creditors and other parties in interest, including the case trustee and the U.S. Trustee.

LBR 1015-2. RELATED CASES

(a) **Definition of Related Cases.** Related cases shall include cases commenced by: spouses; a partnership and one or more of its general partners; two or more general partners; two

or more debtors having an interest in the same asset; and affiliates.

(b) Notice of Related Cases. In the event there are related bankruptcy cases, the debtor shall file a Notice of Related Cases at the time of filing of the petition, and shall serve a copy of the notice upon the U.S. Trustee. The notice shall list the name, filing date, and case docket number of any related cases.

LBR 1070-1. JURISDICTION

(a) General Reference. Pursuant to 28 U.S.C. § 157(a), all cases under Title 11 and all civil proceedings arising under Title 11 or arising in or related to a case under Title 11 are referred to the bankruptcy judges of this district, except as provided in paragraph (b) of this rule.

(b) Pending District Court Proceedings. Any civil proceeding arising in or related to a case under Title 11 that is pending in the district court on the date the Title 11 case is filed shall be referred to a bankruptcy judge only upon order of the district judge before whom the proceeding is pending. Such an order may be entered upon the motion of a party, the district judge's own motion, or upon the recommendation of a bankruptcy judge.

LBR 1072-1. PLACES OF HOLDING COURT

Session. The court shall be in continuous session in Honolulu, Hawaii and as required in Wailuku, Hilo, Kailua-Kona, and Lihue, Hawaii.

LBR 1074-1. CORPORATIONS AND OTHER ENTITIES

(a) Petition Filed by a Corporation. When a voluntary petition is filed by a corporation, there shall be attached to the petition as an exhibit the original or a copy of a resolution of the board of directors or equity security holders, authorizing the filing of the petition.

(b) Petition Filed by Limited Liability Company. When a voluntary petition is filed by a limited liability company or an entity other than a corporation or a partnership, there shall be attached to the petition as an exhibit a copy of the document

authorizing, under relevant nonbankruptcy law, the filing of the petition.

PART II

LBR 2004-1. DEPOSITIONS AND EXAMINATIONS

(a) **Examination Order Issued by Clerk.** A party in interest seeking to examine the debtor or other entity pursuant to Fed. R. Bankr. P. 2004 may request an examination order to be issued by the clerk by filing a written motion. The clerk is authorized to sign and enter an examination order requested by a party in interest who has complied with the requirements of this local rule.

(b) **Date, Time, and Place of Examination.** Prior to filing a motion for an examination order, the party seeking the order shall make all reasonable efforts to arrange a mutually convenient date, time, and place of examination. The motion for an examination order shall be supported by a declaration stating either:

(1) that the proposed date, time, and place of examination have been agreed upon by all concerned; or

(2) that the parties could not agree to a date, time, and place of examination after all reasonable efforts were made, with the moving party's proposed date, time and place of examination, but no earlier than 10 business days after the date of the filing of the motion for an examination order.

LBR 2015-2. DEBTOR-IN-POSSESSION DUTIES

Funds of the estate.

(a) **Account Identification.** The signature card (or if there is none, the depository agreement) for any account containing funds which are the property of a bankruptcy estate must clearly indicate that the depositor or investor is a "debtor-in-possession" or a trustee in bankruptcy.

(b) **Registry Account Funds.** When the court orders or approves holding of funds by the clerk as registry account funds, counsel shall give to the clerk reasonable advance notice of the amount to be deposited. Any requests that funds be held in a

particular type of account or designated depository must be delivered to the clerk in writing.

LBR 2015-3. TRUSTEES - REPORTS AND DISPOSITION OF RECORDS

(a) **Voluntary Cases.** In a case filed pursuant to 11 U.S.C. § 301 or § 302, the books and records of the debtor shall be closed on the day immediately preceding the day on which the petition is filed, whether or not a separate estate is created for tax purposes. Pre-petition liabilities shall be segregated and reported separately from postpetition liabilities.

(b) **Involuntary Cases.** In a case filed pursuant to 11 U.S.C. § 303, the books and records of the debtor shall be closed on the day on which relief is ordered or an interim trustee is appointed, whichever occurs first. Notwithstanding the foregoing, liabilities incurred before the commencement of the case shall be segregated and, in the event relief is granted, reported separately from liabilities incurred after the commencement of the case.

LBR 2015-6. MAIL REDIRECTION

(a) **Consent of Debtor.** The filing of a petition under Title 11 by a debtor engaged in business is deemed to be the debtor's consent to mail redirection by the interim trustee and the trustee.

(b) **Objection by Debtor.** If the debtor does not consent to mail redirection, the debtor shall file a written objection with the clerk. Upon the filing of the debtor's objection, the court shall promptly set a hearing on notice to the debtor, the trustee, and the U.S. Trustee. After the filing of the objection, and pending order of court, the redirection shall continue, but the trustee shall hold, and not open, the debtor's mail.

LBR 2015-7. MONTHLY OPERATING REPORTS

(a) **Cases in Which Reports Are Required.** Monthly operating reports shall be filed by the trustee or debtor-in-possession in the following cases:

- (1) All cases under Chapter 11 and Chapter 12;

(2) Chapter 7 cases, where a business is being operated by the trustee;

(3) Chapter 13 business cases, if the court so orders.

(b) Filing Deadline. In a case for which a monthly operating report is required pursuant to subparagraph (a) of this rule, the report shall be filed no later than the 20th day of the month following the month to which the report pertains. A separate report must be filed for each calendar month, or portion thereof, during which the case is pending, up to and including the month in which an order of confirmation or dismissal is entered.

(c) Service of Reports. A copy of each monthly report shall be served, no later than the day upon which it is filed with the court, upon the U.S. Trustee, the chair and counsel of record of each committee of creditors and each committee of equity security holders appointed by the U.S. Trustee, and such other persons or entities as may be ordered by the court. In a Chapter 12 or Chapter 13 case, service of a copy of each monthly report also must be made on the case trustee.

(d) Form and Content of Reports.

(1) Unless the court otherwise orders, monthly operating reports shall include an accrual basis profit and loss statement, a balance sheet, and a statement of receipts and disbursements.

(2) Any motion to modify this requirement shall be served on all parties upon whom the monthly operating report is required to be served.

(e) Certificate of Counsel. Monthly operating reports filed with the court shall be accompanied by a certificate of counsel. The certificate shall affirmatively state that counsel has reviewed the report and that it has been prepared in compliance with this local rule. Counsel's certificate shall not be deemed to be a representation by counsel that the entries contained in the report are accurate or that the report has been prepared in compliance with applicable accounting standards and principles.

LBR 2016-1. COMPENSATION OF PROFESSIONALS

(a) Guidelines. The court, in consultation with a committee appointed by the Bankruptcy Law Section of the Hawaii State Bar Association and the Assistant U.S. Trustee for this district, may adopt and, as needed, revise guidelines concerning the allowance and disallowance of professional fees and reimbursement of expenses and the contents and format of applications for compensation filed pursuant to 11 U.S.C. §§ 330(a) and 331 and Fed. R. Bankr. P. 2016 (a). A copy of the guidelines shall be available in the office of the clerk.

(b) Summary Sheet. Every application for compensation and reimbursement of expenses shall include a concise summary sheet listing the following information:

(1) The time period for which the application is being made;

(2) Total amount of the applicant's prior awards of compensation and reimbursement of expenses in the same case;

(3) Total amount of the applicant's prior payments received for compensation and reimbursement of expenses in the same case;

(4) Names of the professionals providing the services for which the application is being made, each professional's hourly rate, total hours expended by each professional, and total amount of fees being requested for each professional's services;

(5) A calculation of an average hourly rate for the total fees being requested for each professional category, such as attorneys, paralegals and accountants;

(6) The separate amounts being requested for professional compensation, excise taxes on fees, and reimbursement of expenses;

(7) A disclosure of the receipt and application of any retainer received from the debtor or any other source;

(8) A statement concerning the availability of funds to pay the sums requested in the application.

(c) Chapter 13 Attorney Fee Guidelines. The court, after consultation with the Office of the United States Trustee and members of the local bar, may adopt and amend Chapter 13 Attorney Fee Guidelines. Under these guidelines, compensation and reimbursement of expenses to be paid through a Chapter 13 plan to a debtor's attorney may be approved as part of plan confirmation and outside the Guidelines for Compensation and Expense Reimbursement of Professionals, and without submission of detailed billing records. If a debtor and attorney elect not to follow the Chapter 13 Attorney Fee Guidelines, the attorney must apply for court approval of compensation and reimbursement of expenses after separate notice and a hearing, pursuant to 11 U.S.C. §§ 330 & 331, Fed. R. Bankr. P. 2016, and subdivisions (a) and (b) of this rule.

LBR 2072-1. NOTICE TO OTHER COURTS

(a) Notice of Bankruptcy Petition. Notice of the filing of a bankruptcy petition in this district shall be given to any federal or state court in which the debtor is a party to pending litigation or other proceeding. Notice shall be given, at the earliest possible date, to the judge to whom the matter is assigned, the clerk of the court where the matter is pending, all counsel of record in the matter, and all parties to the action not represented by counsel. A debtor filing a petition without bankruptcy counsel shall give notice immediately to any attorney representing the debtor in pending litigation or other proceeding. Notice of a bankruptcy petition will not be deemed an act to bar any conference in another court held to advise the court and the parties of the status of the bankruptcy case.

(b) Party to Give Notice. In a voluntary case, the notice shall be given by the debtor or the debtor's counsel. In an involuntary case, notice shall be given by counsel for the petitioning creditors or by any petitioning creditor not represented by counsel.

(c) Effect of Not Giving Notice. Failure to give the notice required by subdivision (a) of this rule may constitute cause for annulment of the stay imposed by 11 U.S.C. §§ 362, 922, 1201 or 1301. Failure to give the notice required by subdivision (a) of this rule may result in the imposition of sanctions.

(d) Notice of Order for Relief from Stay. Notice of an order terminating, annulling, modifying, or conditioning the stay

imposed by 11 U.S.C. §§ 362, 922, 1201 or 1301, if such order will permit resumption of litigation or other proceeding, shall be given to the parties noted in subdivision (a) of this rule. Notice shall be given by the party obtaining the order for relief from stay.

(e) Notice of Other Order Affecting Litigation. Notice of an order dismissing or closing a case, granting or denying a discharge, or otherwise affecting the resumption of litigation or other proceeding, shall be given by the debtor or the debtor's counsel to the parties noted in subdivision (a) of this rule. If the debtor or the debtor's counsel fails to give such notice promptly, the notice may be given by any party in interest with knowledge of the order affecting pending litigation or other proceeding.

LBR 2083-1. CHAPTER 13 - GENERAL

The court, after consultation with the Office of the United States Trustee and members of the local bar, may adopt and amend guidelines for procedures in Chapter 13 cases, including the mandatory use of court-approved forms.

LBR 2090-1. ATTORNEYS - ADMISSION TO PRACTICE

Unless admitted *pro hac vice*, attorneys who appear in this court shall be in good standing and shall have been admitted to practice before the United States District Court for the District of Hawaii.

LBR 2091-1. ATTORNEYS - WITHDRAWAL

Withdrawal of Counsel. Withdrawal of counsel for the debtor, trustee, or any committee shall require approval by the court. The court for good cause shown may authorize the withdrawal of such counsel upon such notice and hearing as the court may require. The motion shall be accompanied by an affidavit or declaration of counsel stating the reasons for the withdrawal and shall be noticed to the client. An individual appearing *pro se* after withdrawal of counsel must comply with LBR 9011-2. Counsel for parties other than the debtor, trustee, or a committee may withdraw by filing a notice of withdrawal and serving a copy of such notice on the client and all other parties.

LBR 2092-1. ATTORNEYS - SUBSTITUTION

(a) Counsel appointed with court approval pursuant to 11 U.S.C. § 327 may be replaced by substitute counsel only with court approval. An application for substitution of counsel shall include the same documentation required for approval of the original appointment.

(b) Except as provided in subdivision (a) of this rule, court approval is not required for substitution of counsel. Substitution may be accomplished by filing a notice of substitution of counsel which shall contain the signatures of both the original and substituting counsel and the client.

(c) Notice of substitution of counsel shall be given to all parties and separately filed in all adversary proceedings in which the substitution is effective.

PART III

LBR 3003-1. CHAPTER 9 AND CHAPTER 11 PROOFS OF CLAIM OR INTEREST

Unless the court otherwise orders, proofs of claim or interest required to be filed by Fed. R. Bankr. P. 3003 shall be filed within 90 days after the first date set for the meeting of creditors called pursuant to 11 U.S.C. § 341. Notice of the deadline for the filing of proofs of claim or interest shall be included by the clerk in the notice of commencement of the case.

LBR 3007-1. CLAIMS - OBJECTIONS

Where a factual dispute is involved, the initial hearing on an objection to the allowance of a claim shall be deemed a status conference at which the court will not receive evidence or testimony. Where the objection involves only a matter of law, the judge may allow the matter to be argued at the initial hearing. Any notice of hearing on an objection to the allowance of a claim shall include a statement of the substance of this rule.

LBR 3010-1. DIVIDENDS - SMALL

Dividends Less than \$5. In a chapter 7 case, the trustee may pay dividends in amounts less than \$5.

LBR 3015-1. CHAPTER 13 - PLAN

(a) **Mandatory Form Plan.** All Chapter 13 plans and amended plans shall conform with the court-approved form made part of the Guidelines for Chapter 13 Procedures.

(b) **Dismissal Upon Failure to File Plan.** In any Chapter 13 case where the plan, required by 11 U.S.C. § 1321, is not filed with the petition, the clerk is authorized to issue an order to satisfy the deficiency and to give notice that failure to file the plan within 15 days after the date the petition was filed, or some later date as the court directs, may result in dismissal of the case without further notice, unless on or before the filing deadline the debtor requests and is granted an extension of time to file the plan. A request for an extension shall be submitted to the Chapter 13 Standing Trustee for approval. An order dismissing the case pursuant to this provision may include a 180-day bar to refiling a subsequent petition pursuant to 11 U.S.C. § 109(g)(1).

LBR 3017-1. DISCLOSURE STATEMENT - APPROVAL

Unless the court otherwise orders, the plan proponent shall comply with the following procedures:

(a) Notice of the disclosure hearing shall be served on all parties in interest. The notice shall contain the information required by Official Form No. 12 and, unless the court orders otherwise, shall state that the deadline for the filing of objections to the disclosure statement is 7 days prior to the hearing.

(b) The proposed plan and proposed disclosure statement shall be served only on the debtor, the United States Trustee, and the persons designated in Bankruptcy Rule 3017(a).

(c) A certificate of service showing compliance with this rule must be filed at least 3 business days prior to the hearing.

(d) Not later than 3 business days prior to the hearing (and any continued hearing), the plan proponent shall advise the court by telephone whether the proponent intends to go forward with the hearing.

(e) In the event the plan proponent receives an objection to the disclosure statement, the proponent and the objecting party must confer and make a good faith effort to resolve the objection.

(f) A plan proponent desiring a continuance of the hearing on a disclosure statement shall appear at the scheduled hearing to request a continuance.

(g) The plan proponent may establish that the disclosure statement meets the applicable requirements of 11 U.S.C. § 1125(a) and (b) by offer of proof, declaration or, if the court so requires, live testimony. In all cases, a witness competent to testify must be present. Briefs are not required.

(h) At the conclusion of the disclosure hearing, counsel for the plan proponent shall be prepared to advise the court of the amount of court time the confirmation hearing will require. If a contested confirmation hearing is anticipated, the court will entertain requests that scheduling procedures be established concerning the filing of briefs, exchange and marking of exhibits, disclosure of witnesses and discovery.

(i) Upon approval of the disclosure statement, the plan proponent shall submit to the court a proposed Order Approving Disclosure Statement and notice, containing the information required by Official Form No. 13. At the hearing, counsel shall be prepared to advise the court concerning the proposed date for the confirmation hearing and deadlines to be included in the order.

LBR 3020-1. CHAPTER 11 - CONFIRMATION

(a) Unless the court otherwise orders, the plan proponent shall comply with the following procedures:

(1) All ballots and a ballot tabulation showing the percentages of acceptances and rejections for each impaired class, in number and dollar amount, must be filed at least three (3) business days prior to the confirmation hearing. The tabulation should also identify any unimpaired classes.

(2) A certificate of service of the plan, disclosure statement, official ballot, and Order Approving Disclosure

Statement must be filed not later than 3 business days prior to the confirmation hearing.

(3) Not later than 3 business days prior to the hearing (and any continued hearing), the plan proponent shall advise the court by telephone whether the proponent intends to go forward with the hearing.

(4) The plan proponent and any party objecting to confirmation shall make a good faith effort to confer prior to the confirmation hearing regarding disputed issues and the conduct of the confirmation hearing.

(5) A plan proponent desiring a continuance of the confirmation hearing shall appear at the scheduled hearing to request a continuance.

(6) If the plan has been accepted by the requisite majorities and no objections to confirmation have been filed, the plan proponent may establish that the plan meets the applicable requirements of Chapter 11 by offer of proof, declaration, or, if the court so requires, live testimony. In all cases, a witness competent to testify must be present.

(b) Unless the court otherwise orders, any objections to confirmation of the plan must be filed not later than seven days prior to the confirmation hearing.

LBR 3022-1. FINAL DECREE

At the confirmation hearing, the proponent of the plan shall advise the court when all post-confirmation court proceedings can be completed. The court may set deadlines for filing reports and an application for a final decree.

PART IV

LBR 4001-1. AUTOMATIC STAY - RELIEF FROM

(a) Procedure and Supporting Documents.

(1) Motion.

(A) Unless the court otherwise orders, a motion for relief from the automatic stay imposed by 11 U.S.C. § 362(a)

shall not be combined with any other request, other than a request for similar relief from the codebtor stay imposed by 11 U.S.C. §§ 1201(a) or 1301(a).

(B) A motion for relief from the automatic stay or a codebtor stay shall describe the relief sought and shall be accompanied by the declaration of an individual, competent to testify, which sets forth the factual basis for the motion.

(C) Every motion for relief from the automatic stay or a codebtor stay shall include as an exhibit an informational cover sheet that substantially conforms to a cover sheet formulated by the court.

(2) **Notice.**

(A) The moving party shall obtain a hearing date and give notice of the hearing as required by Rule 4001(a)(1) of the Federal Rules of Bankruptcy Procedure. Service shall be made by promptly placing the notice and motion in the mail, or by promptly hand delivering the notice and motion, after the filing of the motion, on the debtor, the debtor's attorney, the trustee, and any creditors' committee elected or appointed under the Code, or, if no committee has been appointed in a chapter 11 case, on the 20 largest unsecured creditors. If the motion seeks to enforce a lien, notice shall be given to all other parties, known to the moving party, who claim an ownership or security interest in the same collateral. If the motion concerns a codebtor stay, the moving party must serve the papers on and give notice of the hearing to the codebtor. If the motion concerns the commencement or continuation of a judicial, administrative or other action or proceeding, notice shall be given to all parties to the action or proceeding.

(B) The notice shall be a separately filed document and shall substantially conform to a form notice issued by the court. The notice shall advise that the relief sought may be granted without a hearing if an opposition statement is not filed, in a matter concerning the automatic stay, within 12 days after the motion was filed, or, in a matter concerning a codebtor stay, within 20 days after the date the motion was filed. Notice of a motion requesting relief from both the automatic stay and a codebtor stay shall advise that the relief sought may be granted without a hearing if an opposition statement is not filed within 20 days after the date the motion was filed.

(C) No order for relief from the automatic stay or codebtor stay will be entered pursuant to this rule unless the moving party has complied with the notice provisions of subsections (2)(A) and (2)(B), unless the court otherwise orders.

(3) Opposition Statement and Reply.

(A) A debtor, trustee, or other party in interest opposing a motion for relief from the automatic stay shall file with the court, within 12 days after the filing of the motion, a statement setting forth the party's opposition and the grounds therefor. A debtor, codebtor, trustee, or other party in interest opposing a motion for relief from a codebtor stay shall file with the court, within 20 days after the filing of the motion, a statement setting forth the party's opposition and the grounds therefor. The opposition statement shall be served promptly on the moving party, and the parties referred to in LBR 4001-1(a)(2)(A), by mail or by hand delivery.

(B) If no opposition statement is timely filed, then the moving party may prepare and submit to the court, after the conclusion of the relevant opposition period, a proposed order granting the relief requested. The proposed order must be accompanied by a certificate of service showing service of a copy of the proposed order on the same parties required to be served the underlying motion. The court will enter such order or notify the parties that the scheduled hearing will be held. If the order grants relief to permit the enforcement of a lien or a security interest, the termination of the possession of property, or the prosecution of a claim that is covered by insurance or other indemnity provisions, the order shall state that there shall be no deficiency judgment or other money judgment without further order of the Bankruptcy Court. If the order grants relief from the codebtor stay under 11 U.S.C. § 1301, the order shall state that there shall be no deficiency judgment against the codebtor without further order of the court unless the motion and notice clearly informed the codebtor that the moving party sought such relief.

(C) If an opposition statement is timely filed, the moving party may file a memorandum, declarations, or other materials in reply not later than 3 days before the hearing. The reply materials shall be served by fax, hand delivery, or electronic means within 24 hours of filing upon all parties who filed an opposition statement.

(b) **Oral Testimony.** Unless the court otherwise orders, no oral testimony will be received by the court at any hearing on a motion for relief from the automatic stay or a codebtor stay.

LBR 4002-1. DEBTOR - DUTIES; DESIGNATION OF RESPONSIBLE INDIVIDUAL

Designation of Responsible Individual For Corporation or Partnership Debtor.

(a) Every corporate or partnership debtor or debtor-in-possession shall designate a natural person to be responsible for performing the duties and obligations of the debtor or debtor-in-possession. The designation shall include the responsible individual's name, address, telephone number, and position within the organization.

(b) If the duties are to be shared by two or more individuals, the responsibilities of each shall be specified.

(c) The designation shall be filed with the petition, or promptly thereafter. When the designation is filed, it shall be accompanied by each designated individual's consent to the designation.

(d) Unless the court otherwise orders, at least one of the responsible individuals must reside in the District of Hawaii.

LBR 4003-1. EXEMPTIONS

Orders Setting Apart Exempt Property. If no objection to a claim of exemption has been made within the time provided in Fed. R. Bankr. P. 4003(b), the court may, at any time, without a hearing and without reopening the case, enter an order approving claimed exemptions and setting apart exempt property as claimed.

LBR 4008-1. REAFFIRMATION

Court Approval of Reaffirmation Agreements. A request for court approval of a reaffirmation agreement under 11 U.S.C. § 524(c) must be made using court-approved forms for the reaffirmation agreement and the motion requesting approval. Court-approved forms will be available from the clerk.

PART V

LBR 5001-2. CLERK - LOCATION

The clerk's office is located at 1132 Bishop Street, Suite 250L, Honolulu, Hawaii. The local rules, forms and other information are also available at the court's web site: <http://www.hib.uscourts.gov>.

LBR 5005-1. FILING PAPERS - REQUIREMENTS

(a) Filing. Documents shall be filed with the clerk of the Bankruptcy Court.

(b) Caption Requirements. In addition to the information generally required by these rules, the caption of each paper filed in a bankruptcy case or adversary proceeding shall contain all of the following information:

(1) The chapter of the Bankruptcy Code under which the case is currently pending; and

(2) The date and time of the hearing or trial, where applicable, and the name of the presiding judge.

(c) Defective Pleadings and Papers.

(1) The clerk may reject without filing, a petition that:

(i) is submitted by a person who, pursuant to 11 U.S.C. 109 or by court order, may not be a debtor at the time the petition is submitted;

(ii) is submitted on behalf of a corporation, partnership or other artificial entity, either without the authorization required by LBR 1004-1 and LBR 1074-1, or by a person who is not an attorney admitted to the federal bar;

(iii) is submitted without the original signatures of the debtor, both joint debtors, or the attorney filing the petition; or

(iv) is submitted without the required filing fee, without a mailing matrix; or if a chapter 9 or chapter 11 petition, without the list of the 20 largest unsecured creditors.

(2) The clerk may reject, without filing, a pleading or paper that:

(i) is not accompanied by a fee, tendered in a manner suitable to the clerk, and required to be paid at the time of filing by 28 U.S.C. § 1930(a) or (b);

(ii) is not originally verified as required by Fed. R. Bankr. P. 1008;

(iii) is not signed with an original signature, unless accepted by the clerk as a faxed or electronic filing as permitted by LBR 5005-4 and LBR 5005-5; or

(iv) is intended to be filed in a case or adversary proceeding which does not exist in this court or has been closed, unless the pleading is a request to reopen a closed case or is related to such a request.

(3) The clerk shall give prompt notice to the filing party of the rejection of any petition, pleading or paper, specifying the basis for the rejection.

(4) Any party affected by the rejection of a pleading or paper may file a motion for judicial review of such action within 10 days of the rejection. If judicial review results in a determination that the rejection was improper, the pleading or paper may be deemed filed as of a date and time set by the court. Notice of a motion for such review shall be served by the moving party upon all affected parties.

LBR 5005-2. FILING PAPERS - NUMBER OF COPIES

(a) **Initial Documents.** The petition, statements, schedules, and lists required by Fed. R. Bankr. P. 1002, 1003, 1004, and 1007 shall be filed in the following numbers:

(1) Chapter 7 - an original and 4 copies.

(2) Chapter 9 - an original and 6 copies.

- (3) Chapter 11 - an original and 6 copies.
- (4) Chapter 12 - an original and 4 copies.
- (5) Chapter 13 - an original and 4 copies.

The number of copies stated above includes one copy to be file stamped and returned to the filing party. This copy may be omitted at the election of the filing party.

(b) All Other Documents. The clerk shall determine the numbers of copies which must be submitted with original documents tendered to the court for filing and shall publish and maintain a current listing of copies required. This list shall be posted on the web site of the court and shall be made available to the public and to the bar upon request.

(c) Conformed Copies of Documents. Only one conformed copy of filed documents will be returned to counsel.

LBR 5005-4. ELECTRONIC FILING

(a) Court Automation Requirements. The court may issue guidelines on requirements for papers as may be necessary to comply with court automation systems.

(b) Electronic Filing. Documents may be filed, signed, verified and served by electronic means, as established by administrative order of the court.

LBR 5005-5. FAX FILING

Fax Filing of Papers. Documents may be transmitted by fax to the court for filing only as permitted under guidelines established by the court and available from the clerk's office.

LBR 5011-1. WITHDRAWAL OF REFERENCE

(a) Motion. A motion to withdraw the reference of a case or proceeding shall be filed with the clerk of the district court.

(b) Automatic Stay. Nothing in this rule shall modify any automatic stay imposed by Title 11 U.S.C. §§ 362(a), 922, 1201(a), or 1301(a).

PART VI

LBR 6004-1. SALE OF ESTATE PROPERTY

(a) **Procedure.** A motion for authority to sell free and clear of liens or other interests under 11 U.S.C. § 363(f) shall identify by name, immediately below the caption, the holder of the lien or other interest whose property rights are or may be affected by the motion. The holders of the affected liens or other interests shall be served with a complete set of moving papers pursuant to Fed. R. Bankr. P. 7004(b).

(b) **Supporting Papers.** The motion shall be supported by the declaration of an individual, competent to testify, which sets forth the factual basis for the motion and which demonstrates that the moving party satisfies one or more of the conditions established by 11 U.S.C. § 363(f)(1)-(5). The motion shall identify which subsection of § 363(f) the moving party claims to satisfy and shall be supported, unless the court otherwise orders, by a current Uniform Commercial Code financing statement report, with respect to personal property, and a current title report, with respect to real property, or other satisfactory evidence of the status of the title to the real or personal property which is the subject of the motion.

LBR 6006-1. EXECUTORY CONTRACTS

(a) Assumption and Rejection.

(1) Notice of a motion or stipulation to assume, reject, or assign an executory contract or unexpired lease shall be served upon: (1) those entities known to the movant to be entitled to receive notice of a default, termination, or assignment of the contract or lease under the terms of the contract or lease itself or under the terms of any related contract with the debtor; (2) in a Chapter 9 or Chapter 11 case, the creditors that hold the 20 largest unsecured claims or the chair and counsel of record of each committee of creditors and each committee of equity security holders appointed by the U.S. Trustee, if any have been appointed; and (3) those entities entitled to notice under Fed. R. Bankr. P. 6006(c).

(2) Any party seeking assumption of an executory contract or unexpired lease shall be prepared to present evidence and testimony concerning the ability of the debtor or trustee to

meet the obligations imposed by such executory contract or unexpired lease.

(b) Compelling Performance of Obligations. Unless the court otherwise orders, notice of a motion to compel performance of a lease of non-residential real property or to extend the time for performance under 11 U.S.C. § 365(d)(3) shall be served upon: (1) all parties to such lease; (2) those entities known to the movant to be entitled to receive notice of a default, termination, or assignment of the lease under the terms of the lease itself or under the terms of any related contract with the debtor; (3) in a Chapter 9 or Chapter 11 case, the creditors that hold the 20 largest unsecured claims or the chair and counsel of record of each committee of creditors and each committee of equity security holders appointed by the U.S. Trustee, if any have been appointed; and (4) those entities entitled to notice under Fed. R. Bankr. P. 6006(c).

(c) Extensions. Unless the court otherwise orders, notice of any motion under 11 U.S.C. § 365(d)(4) to extend the 60 day period to assume or reject an unexpired lease of nonresidential real property shall be served only on those entities entitled to receive notice of a default, termination, or assignment under the terms of the lease itself or under the terms of any other contract with the debtor, and to the chair and counsel of record of each committee of creditors and each committee of equity security holders appointed by the U.S. Trustee, if any have been appointed.

PART VII

LBR 7001-1. ADVERSARY PROCEEDINGS - GENERAL

(a) Incorporation of Other Rules. Unless the court otherwise orders, the Federal Rules of Bankruptcy Procedure and Official Bankruptcy Forms, together with the following rules of practice from other chapters of the Local Rules of the District Court for the District of Hawaii shall apply in all adversary proceedings:

- (1) The rules incorporated by LBR 1001-2;
- (2) LR 4.1 Service of Process;
- (3) LR 5.2 Depositions: Original Transcripts;

- 4. LR 7.2 Motions; Notice, Hearing, Motion, and Supporting Papers ;
- 5. LR 7.3 Motions; Deadline for Hearings on Dispositive Motions;
- 6. LR 7.4 Motions; Opposition and Reply;
- 7. LR 7.9 Motions; Related and Counter Motions;
- (h) LR 16.1 Counsel's Duty of Diligence;
- (i) LR 16.2 Scheduling Conference;
- (j) LR 16.3 Scheduling Conference Order;
- (k) LR 16.4 Pretrial Conference;
- (l) LR 16.6 Contents of Pretrial Statement;
- (m) LR 16.7 Pretrial Conference Agenda;
- (n) LR 16.8 Pretrial Order;
- (o) LR 16.9 Objections to Proposed Testimony and Exhibits; Motions in Limine;
- (p) LR 26.1 Conference of Parties;
- (q) LR 26.2 Written Responses to Discovery Requests;
- (r) LR 51.1 Jury Instructions;
- (s) LR 56.1 Motions for Summary Judgment;
- 20. LR65.1.1 When a Bond or Security is Required;
- 21. LR 65.1.2 Qualifications of Surety; and
- 22. LR 83.6 Attorneys; Appearances, Substitutions and Withdrawal of Attorneys.

(b) Modification. The court may direct that additional local rules apply.

LBR 7003-1. COVER SHEET

Every complaint initiating an adversary proceeding shall be accompanied by a completed Adversary Proceeding Cover Sheet in a form prescribed by the clerk. Adversary Proceeding Cover Sheets are available in the clerk's office and at the court's web site: <http://www.hib.uscourts.gov>.

LBR 7007-2. STATEMENT OF NON-OPPOSITION

If a motion in an adversary proceeding is unopposed, the respondent shall file a statement of non-opposition not later than the date when the opposition may be filed pursuant to LR 7.4.

LBR 7052-1. FINDINGS AND CONCLUSIONS

(a) Preparation and Submission.

(1) Unless the court orders otherwise, within 7 days after the announcement of the decision of the court on any matter in which the court is required or elects to enter written findings of fact and conclusions of law, the prevailing party shall prepare a draft of the findings and conclusions, and circulate the same for approval as to form by all parties who appeared at the hearing. If any party who appeared at the hearing fails or refuses to approve the proposed findings and conclusions as to form within 7 days after receipt thereof, or if circulation of the order to all counsel is impractical in the circumstances, the drafting party shall submit the proposed findings and conclusions to the court and promptly give notice of such submission to all parties who appeared at the hearing.

(2) A draft of the findings and conclusions shall be submitted to the court in written form and in a standard electronic word processing format, on disk or sent by electronic transmission.

(b) Objections. Any party receiving notice of the submission of proposed findings of fact and conclusions of law shall, within 5 business days after the date of the notice, submit to the court and serve upon all other parties a statement of any objections to the proposed findings and conclusions, the reasons therefor, and alternate proposed findings and

conclusions. Thereafter the court shall take such further action as appropriate in the circumstances.

(c) **Separate Order.** Any order or judgment based on related findings of fact and conclusions of law must be set forth in a separate document.

LBR 7055-1. DEFAULT

Judgment for Plaintiff. Unless the court orders otherwise, a plaintiff entitled to a judgment by default in an adversary proceeding, for a claim other than a sum certain pursuant to Fed. R. Civ. P. 55(b)(2), shall obtain a judgment only by written motion and upon establishment of a prima facie case at a hearing, with notice of not less than 28 days to the defendant. The motion shall be served on the defendant and, if represented by counsel, the defendant's attorney. Entry of default by the clerk must be made prior to or concurrently with the filing of the motion.

PART VIII

LBR 8005-2. PROCESSING OF BANKRUPTCY APPEALS

(a) At any time before an appeal has been docketed in the district court as provided in Fed. R. Bankr. P. 8007, the bankruptcy court is authorized and directed, on motion of a party or its own motion:

(1) to dismiss an appeal filed after the time specified in Fed. R. Bankr. P. 8002;

(2) to dismiss an appeal in which appellant has failed to file a designation of the items for the record or a statement of the issues as required by Fed. R. Bankr. P. 8006;

(3) to hear, under Fed. R. Bankr. P. 9006(b), motions to extend the foregoing deadlines and to consolidate appeals which present similar issues from a common record.

(b) Bankruptcy court orders entered under subsection (a) may be reviewed by the district court on motion filed within 10 days after entry of the order sought to be reviewed.

LBR 8007-1. COMPLETION OF RECORD - APPEAL

The record on appeal shall include a transcript of the hearing(s) resulting in the order or judgment from which the appeal is taken or a summary thereof agreed upon by all parties.

LBR 8007-2. TRANSMISSION OF RECORD - APPEAL TO DISTRICT COURT

In an appeal to the District Court, as soon as the statement of issues, designation of record, and any transcripts that have been designated are filed with the Bankruptcy Court, the clerk of the Bankruptcy Court shall transmit to the District Court a certificate of readiness, indicating that the record is complete. The clerk of the District Court shall forthwith notify the parties to the appeal that this certificate has been filed at the District Court, and this date shall constitute the date of entry of the appeal on the docket for purposes of Fed. R. Bankr. P. 8007 and 8009. The record shall be retained by the clerk of the Bankruptcy Court. A copy of the record shall be transmitted to the District Court upon request by the clerk of the District Court.

LBR 8009-3. REQUIREMENT FOR APPENDIX TO APPELLATE BRIEF

The requirement for an appendix to an appellant's brief in Fed. R. Bankr. P. 8009(b) shall apply to appeals to the District Court. The appendix shall include excerpts of the record to be considered on appeal.

PART IX

LBR 9010-1. ATTORNEYS - NOTICE OF APPEARANCE

(a) Artificial Entities. A corporation, partnership, or any entity other than a natural person may not appear as a party in an adversary proceeding or a contested matter or as a debtor in a bankruptcy case except through counsel admitted to practice in this district.

(b) Chapter 11 Cases. A corporation, partnership, or any entity other than a natural person may not serve as a debtor-in-possession in a Chapter 11 case unless represented by counsel appointed by the court pursuant to 11 U.S.C. § 327(a).

(c) **Excepted Matters.** Nothing herein shall preclude a corporation, partnership, or any entity other than a natural person from filing a proof of claim, an application for compensation, or a reaffirmation agreement, or from appearing at a meeting of creditors through an officer or other authorized agent.

(d) **Appearances.** The filing of any document in a bankruptcy case or adversary proceeding shall constitute an appearance by the attorney who signs the document.

LBR 9011-1. ATTORNEYS - DUTIES

(a) **Representation in a Bankruptcy Case.** Notwithstanding any employment, retainer or attorney-client agreement, an attorney who files a petition in bankruptcy on behalf of a debtor, or who subsequently enters an appearance on behalf of a debtor other than as special counsel under 11 U.S.C. § 327(e), will be counsel of record and shall provide representation in all matters arising during the administration of the case until the case is closed or dismissed, unless the court approves the attorney's withdrawal or substitution.

(b) **Representation in an Adversary Proceeding.** An attorney representing a debtor in a bankruptcy case may, by agreement with the debtor, exclude representation of the debtor in an adversary proceeding by indicating such non-representation in the attorney's compensation disclosure statement required under Fed. R. Bankr. P. 2016(b).

LBR 9011-2. PRO SE PARTIES

Pro Se Parties. Individuals may appear *pro se*, under such conditions as the court may impose, shall notify the clerk in writing of their names, their mailing and residence addresses, and their telephone numbers, and shall keep the clerk and opposing parties and counsel informed by proper written notice of changes in the addresses or telephone numbers or both. All such notices shall be indexed and filed in the matrix and the case docket.

LBR 9013-1. MOTION PRACTICE

(a) **Matters Covered by Rule.** This rule shall apply to any motion, application, or objection with respect to which the

Bankruptcy Code provides that relief may be obtained after "notice and a hearing," but does not apply to: (1) motions for relief from the automatic stay; (2) proceedings that must be initiated by complaint under Fed. R. Bankr. P. 7001 (adversary proceedings) or motions therein; and (3) matters that may properly be presented to a judge *ex parte*.

(b) Hearing Required.

(1) Unless the court otherwise orders, the following matters shall be set for hearing:

(A) Motions governed by Fed R. Bankr. P. 4001;

(B) All motions to convert or dismiss unless the debtor can so move as a matter of right and except for a motion by the Office of the United States Trustee pursuant to 11 U.S.C. § 1112(e);

(C) Motions to appoint a trustee or an examiner;

(D) Motions to sell property free and clear of liens;

(E) Hearings on Chapter 11 disclosure statements, and confirmation hearings in cases under Chapters 11 and 12, and;

(F) Objections to a debtor's claim of exemption.

(2) With court approval, any matter within the scope of this rule may be set for hearing.

(3) Except as provided in LBR 9013-1(b)(4), 9013-1(b)(5), and 9013-1(c), notice of all hearings shall be served at least 28 days before the hearing date, any opposition must be filed and served on the party requesting relief at least 18 days prior to the hearing date, and any reply must be filed and served not less than 11 days before the hearing date. This rule extends the minimum time periods specified in Fed. R. Bankr. P. 2002(a). The time periods specified in this subdivision do not apply to notice requirements for approval of a disclosure statement or for confirmation of a plan under any chapter of Title 11, pursuant to Fed. R. Bankr. P. 2002(a)(8) and (b), or for objections to claims, pursuant to Fed. R. Bankr. P. 3007.

(4) The court may shorten time for notice of any hearing or limit the parties to which notice is to be given unless the Bankruptcy Code or the Federal Rules of Bankruptcy Procedure provide otherwise. Every motion requesting that the court shorten or limit notice of a hearing shall be supported by a declaration stating the reasons for the motion, the parties with which the moving party has spoken or attempted to speak concerning the request to shorten or limit notice, and the position taken by such parties. Every such motion shall specify to whom, how, and when the moving party proposes to give notice, and shall propose deadlines for the filing and serving of opposition and reply memoranda. The proposed order on such motions shall have appropriate blanks for such deadlines.

(5) The court may disregard any untimely opposition or reply memorandum or impose other appropriate sanctions.

(6) Every notice of hearing shall state, in bold face type, the deadline for the filing and service of opposition memoranda and that the court may disregard any untimely memoranda.

(7) A Chapter 7 trustee may, without necessity of an order shortening time, set for hearing on 10 days notice any motion to sell personal property of the estate free and clear of, or subject to, liens, if the subject property is situated on leased premises.

(c) Notice and Opportunity for Hearing.

(1) Unless otherwise ordered, a party in interest may file a request for relief, without setting a hearing, regarding any matter within the scope of this rule, other than those matters set forth in subparagraph (b)(1).

(2) The notice shall state conspicuously, on the first page, that:

(A) Any objection or request for hearing must be filed and served within 15 days of mailing of the notice and state with particularity the basis of the objection or request for hearing;

(B) Unless an objection or request for hearing is filed and served in a timely manner, the court may enter an order granting the requested relief by default; and

(C) If there is a timely objection or request for hearing, the moving party will give at least 15 days written notice of hearing to the requesting party, any trustee, any committee appointed in the case, and any other parties directed by the court.

(3) If an objection or request for hearing is filed and the motion is set for hearing, the moving party may file and serve a reply memorandum not later than seven days prior to the hearing.

(4) If notice is given in compliance with this rule and no interested party objects or requests a hearing, the moving party shall file a request for entry of order by default with the clerk and shall submit a proposed order. The request shall be accompanied by an affidavit or declaration regarding the date and place of mailing of the notice, the addresses to which it was mailed and the lack of response.

LBR 9013-3. CERTIFICATE OF SERVICE - MOTIONS

A certificate of service upon counsel shall identify counsel's client; provided that the failure to identify a client on the certificate of service shall not mean that such client has not been served or not received notice.

LBR 9019-2. ALTERNATIVE DISPUTE RESOLUTION

(a) **Purpose and Scope.** To facilitate the voluntary resolution of adversary proceedings and contested matters, the Bankruptcy Court is authorized to establish guidelines for court-sponsored Bankruptcy Alternative Dispute Resolution ("BDR") procedures. This rule does not preclude parties from participating in the alternative dispute resolution ("ADR") procedures implemented under LR 16.11 or in any other ADR process.

(b) Program Administration.

(1) **Bankruptcy Mediation Committee.** The court may establish a Bankruptcy Mediation Committee to formulate guidelines for BDR procedures and the selection, training and evaluation of individuals to serve on a Mediator Panel.

(2) **BDR Administrator.** The court may appoint a BDR Administrator to administer the BDR program and to serve as liaison between the court and the Bankruptcy Mediation Committee.

(3) **Bankruptcy Mediator Panel.** The BDR Administrator shall publish and maintain a list of qualified individuals approved by the court to serve as members of a Bankruptcy Mediator Panel. Individuals selected to serve on the panel may be required to provide a minimum amount of service without compensation.

(c) Confidentiality.

(1) Except as otherwise provided by this rule or applicable law, any and all communications made in connection with any mediation under this rule shall be subject to Rule 408 of the Federal Rules of Evidence.

(2) Mediators and parties shall not communicate with the court about the substance of any position, offer or other matter in the mediation without the consent of all parties, unless such disclosure is required to enforce a settlement agreement or to provide evidence in an attorney disciplinary proceeding, but only to the extent required to accomplish that purpose.

(d) **Immunity of Mediators.** All persons serving as mediators under this rule shall be deemed to be performing quasi-judicial functions and shall be entitled to all of the privileges, immunities and protections that the applicable law accords to persons serving in such capacity.

LBR 9021-1. JUDGMENTS AND ORDERS - ENTRY OF

(a) **Preparation and Submission.** Unless the court orders otherwise, within 7 days after the announcement of a decision by the court which is to be embodied in a judgment or order, the prevailing party shall prepare a draft of the judgment or order and circulate it for approval as to form by all parties who appeared at the hearing. If any party who appeared at the hearing fails or refuses to approve the proposed judgment or order as to form within 7 days after receipt thereof, or if circulation of the order to all counsel is impractical in the circumstances, the prevailing party shall submit the proposed

judgment or order to the court and promptly give notice of such submission to all parties who appeared at the hearing.

(b) Objections. Any party receiving notice of the submission of the proposed judgment or order shall, within 5 business days after the date of the notice, submit to the court and serve upon all other parties a statement of any objections to form of the proposed judgment or order, the reasons therefor, and alternate proposed judgment or order. Thereafter, the court shall take such further action as is appropriate in the circumstances.

(c) Discretion of Court. Nothing in this rule shall limit the court's discretion to enter orders, decisions or judgments prior to the expiration of the time periods specified herein.

(d) Reference to Other Documents. With the exception of an order on a stipulation, an order or judgment must be set forth as a separate document. Any agreement, disclosure statement, plan, or other document approved by an order must be attached as an exhibit. An order on the stipulation of the parties may be combined with the stipulation by indicating "Approved and So Ordered" above the signature line for the judge.

LBR 9073-1. HEARINGS - NOTICE OF

Separate Document Requirement. Whenever written notice of a hearing on a motion or other matter is required, the notice must be filed as a separately captioned document. This rule does not apply to form motions and notices approved by the court. All notices shall include a concise description of the relief sought.

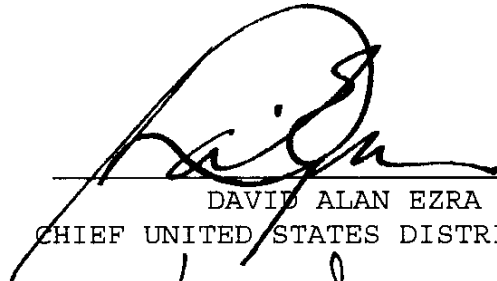
LBR 9074-1. TELEPHONIC AND VIDEO CONFERENCE APPEARANCES

(a) Telephonic and Video Conference Participation at Hearings. The court may, in its discretion, permit any party in interest to participate in any hearing by telephone or video conference. Any party or attorney wishing to appear before the court by telephone or video conference must call the calendar clerk/courtroom deputy not later than 5 business days prior to the hearing to seek authorization for such appearance. In general, telephonic and video conference appearances will be permitted, except testimony may not be presented by telephonic means.

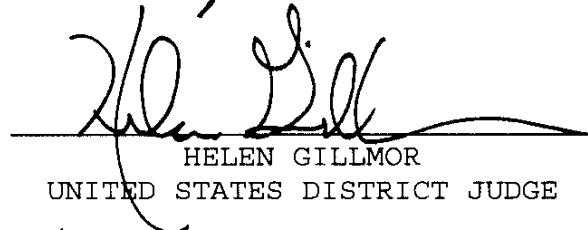
(b) **Service Provider.** The court may establish guidelines for participation in a hearing by telephone or video conference, including requirements for selection and use of a private service provider. A party or attorney who has obtained authorization for such participation should consult the guidelines for information about the provider and any fees for the service.

IT IS SO ORDERED.

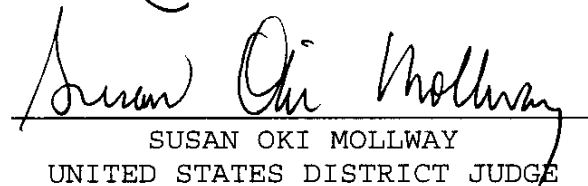
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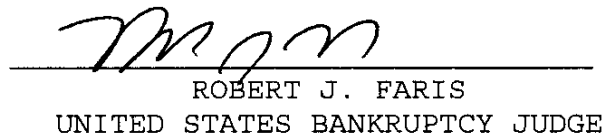
DAVID ALAN EZRA
CHIEF UNITED STATES DISTRICT JUDGE



HELEN GILLMOR
UNITED STATES DISTRICT JUDGE



SUSAN OKI MOLLWAY
UNITED STATES DISTRICT JUDGE



ROBERT J. FARIS
UNITED STATES BANKRUPTCY JUDGE

ORDER AMENDING THE LOCAL RULES OF PRACTICE FOR THE UNITED STATES
DISTRICT COURT FOR THE DISTRICT OF HAWAII